2709.

SUPREME COURT OF THE UNITED STATES.

No. 66.

HORACE H. DAY, APPELLANT,

v.

THE UNION INDIA RUBBER COMPANY.

APPEAL FROM THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

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Circuit Court of the United States, Southern District of New York.

HORACE H. DAY, Appellant,
v.
THE UNION INDIA RUBBER COMPANY, Appellees.

I, Kenneth G. White, Clerk of the Circuit of the United States of America, in and for the Southern District of New York, and Seconed, do hereby certify to the Supreme Court of the United States, that the decree, pleadings, depositions, and other proceedings in the above entitled cause, hereunto annexed, are true transcripts of the originals remaining on the files of my office, in the said cause.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said Court at my office, in the City of New York, this twenty-ninth day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of the Independence of the United States of America, the eighty-first.

KENNETH G. WHITE,
Clerk.

To the Supreme Court of the United States of America:

The petition of Horace H. Day, respectfully represents that a decree was lately made by the Circuit Court of the United States, for the Southern District of New York, in Equity, bearing date the eleventh day of September, in the year of our Lord one thousand eight hundred and fifty-six, in a certain cause pending in said Court, wherein your petitioner was plaintiff, and the Union India Rubber Company were defendants, which said decree, as your petitioner is advised, and every part thereof, is erroneous, and ought to be reversed.

And your petitioner further shows that the matter in dispute in said cause, exclusive of costs, exceeds in value the sum of two thousand dollars. Whereupon your petitioner prays that the said decree, together with the pleadings, depositions, and all other proceedings in said cause, may be sent to the said Supreme Court of the United States, and filed therein, on the first Monday of December, 1856, and that the said decree and every part thereof may be reversed, and that your petitioner may be restored to all things which he has lost by reason thereof. Dated September 11th, 1856.

SAMUEL BLATCHFORD,
Solicitor for Appellant,
1 Hanover Street, New York.

The foregoing appeal is hereby specially allowed, in pursuance of the provisions of the 17th section of the Act of July 4th, 1836,

entitled "An Act to promote the progress of useful arts, and to repeal all acts and parts of acts herebefore made for that purpose." Dated September 22, 1856.

S. NELSON.

Indorsed: Circuit Court of the United States, Southern District, New York. In Equity. Horace H. Day *v.* The Union India Rubber Company. Petition for Appeal. S. Blatchford for Plaintiff in Error. Filed, Sept. 22, 1856.

By the Honorable Samuel Nelson, one of the Judges of the Circuit Court of the United States for the Southern District of New York.

Whereas, Horace H. Day has presented to me a petition of Appeal, directed to the Supreme Court of the United States of America, stating, that a decree was lately made by the Circuit Court of the United States for the Southern District of New York, in Equity, bearing date the eleventh day of September, in the year of our Lord one thousand eight hundred and fifty-six, in a certain cause pending in said Court, wherein said Horace H. Day was plaintiff, and The Union India Rubber Company were defendants, which said decree, and every part thereof, it is alleged is erroneous, and ought to be reversed; and further stating, that the matter in dispute in said cause, exclusive of costs, exceeds in value the sum of two thousand dollars.

And whereas the said Horace H. Day, by his said petition, prays, that the said decree, together with the pleadings, depositions, and all other proceedings in said cause, may be sent to the said Supreme Court of the United States, and be filed therein on the first Monday of December, 1856. And that the said decree, and every part thereof, may be reversed, and that he may be restored to all things which he has lost by reason thereof.

You, the said The Union India Rubber Company, are, therefore, hereby cited to appear before the said Supreme Court of the United States, at the City of Washington, on the first Monday of December, 1856, to show cause, if any there be, why the said decree should not be corrected, and to do and receive what may appertain to justice to be done in the premises.

Given under my hand the 22d day of September, 1856.

S. NELSON.

Indorsed: Circuit Court, United States, Southern District, New York. Day v. The Union India Rubber Company. Citation, S. Blatchford for Day. Filed Sept. 22, 1856. Due, timely, and regular service of the within citation is this day admitted, September 22d, 1856. J. B. Hufty, Att'y for defendants in error.

Circuit Court of the United States, Southern District of New York. In Equity.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY.

Bill of Complaint.

To the Honorable, the Judges of the Circuit Court of the United States for the Southern District of New York.

Horace H. Day, of the city, county, and State of New York, brings this Bill of Complaint against The Union India Rubber Company, a corporation duly established by the laws of the State of New York, in the City of New York, in said district; and thereupon your orator complains and says, that before the 31st day of August, A. D. 1836, one Edwin M. Chaffee, then of Roxbury, in the County of Norfolk, and State of Massachusetts, and a citizen of the United States, became, and was the first and original inventor of a new and useful improvement in the process and machinery for the manufacture of india rubber, which your orator believes was not at the time of the application of said Chaffee for a patent therefor in public use, or on sale, with his consent or allowance, and that the said Chaffee, being such first and original inventor, and being desirous of obtaining an exclusive property in the invention by him made, made application therefor in writing, in due form of law, to the Commissioner of Patents, expressing such desire, and paid thereon a fee of thirty dollars, and presented a model, specifications, drawings, and description of said improvement in the process and machinery aforesaid, claimed by him; and such proceedings were had thereon, that on the 31st day of August, A. D. 1836, Letters Patent of the United States, entitled for an "improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same, without the aid of a solvent, and in the machinery used in the process," signed by John Forsyth, Secretary of State, and countersigned and sealed with the seal of the Patent Office, by Henry L. Ellsworth, Commissioner of Patents, were issued to the said Chaffee, in due form of law, granting to the said Chaffee, his heirs, administrators, or assigns, for the term of fourteen years from the day of the date thereof, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof was annexed to the said Letters Patent.

And your orator further shows, that afterwards, to wit, previous to the 31st day of August, 1850, the said Edwin M. Chaffee made application to the Commissioner of Patents, in due form of law, for an extension of said patent for a further term of seven years from

and after the expiration of the term for which said letters patent were originally granted, as aforesaid, and such proceedings were had on said application, that the said patent was extended by the Commissioner of Patents, for such further term of seven years from and after the 31st day of August, A. D. 1850, as by a copy of said patent, and of the certificate of extension thereof hereunto annexed, will more fully appear.

And your orator further showeth unto your honors, that said extension of said letters patent, enured to the sole and exclusive benefit of said Edwin M. Chaffee, and the right to make, and use, and vend to others to be used, the said improvement and invention vested in him, and became and was his property, with the full right and power to dispose of the same for and during the extended term of seven years, as aforesaid.

And your orator further states, that the said Chaffee, and those claiming under him, have been engaged in building and operating said machines, and in using said process in the manufacture of india rubber, described in the specification annexed to said letters patent, ever since the said letters were granted; that the novelty and validity of said original patents have never been successfully disputed; and that the same have been expressly confirmed by the Commissioner of Patents, after opposition and a full hearing thereon in granting the extension of the same; and he further states that during the original term of said patent, great numbers of said machines were in use in connection with the said patented process in the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and other parts of the country, and great numbers of persons were using the same and claiming the right to do so by the license and permission of said Chaffee, and the novelty and usefulness thereof, during the whole of said period; and that the said defendants, by their arguments in writing, and their acts and conduct relative to the same, have expressly admitted the novelty and validity of said patent, and of the validity of the extension thereof.

And your orator further states, that since the expiration of the term for which such patent was originally granted, the said defendants have had no right, title, or interest in said extended patent, and no license or permission from the said Chaffee, to use the improvement or invention thereby patented and secured to said Chaffee for said extended term.

And your orator further states, that since said extension of said patent, viz.: since the 31st day of August, A.D. 1850, the said defendants have been using the machinery and the process patented by the said Chaffee in violation of his the said Chaffee's right under said extended patent, and in infringement of the said patented improvement or invention; that is to say, they have used machines for grinding india rubber, and spreading the same upon cloths, leather, and other articles, by the use of heated cylinders, with the

rolling and slipping motion thereof, without a solvent, constructed and operated in substantially the same manner, and using substantially the same process in connection with the same, and in coloring the said india rubber so manufactured, as is described in the schedules annexed to the said letters patent, granted and extended as aforesaid to said Chaffee, for an improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process. And that the said defendants have so used the same without a license or permission from said Chaffee, or from your orator, his assignee, and without any right or title thereto, or to the use thereof.

And your orator further states, that the said Edwin M. Chaffee, having the full title to said extended patent, and good right to dispose of the same, did on the first day of July, A.D. 1853, by his deed of assignment of that date, in writing, duly executed and recorded in the Patent Office, and for a valuable consideration to him paid as therein expressed, transfer, assign, and convey to your orator, all his title to said invention and to said patent for said extended term, as by said original deed of transfer, to be produced in Court when required, and by a copy thereof hereunto annexed, will fully appear.

And your orator further states, that in and by said deed of assignment, the said Chaffee transferred and conveyed to your orator, all his right, title, and interest, and power in, to, or over any and all damages, or claim, or right to damages, against any and all persons whatsoever, for or by virtue of, or arising from any and all infringements of said letters patent, or for which a right of action or suit has accrued or shall accrue to said Chaffee, whereby your orator has become entitled to claim, have, and recover of said defendants, all the damages which have accrued to said Chaffee before the date of said deed of assignment, as well as all that have accrued to your orator since the said deed was executed.

And your orator further states, that the said defendants have no license or permission from your orator, or from any one authorized to grant the same, to continue the use of said patented machinery and process; but the said defendants, nevertheless, in violation of your orator's rights, and in infringement of said patent, have used and continue to use said patented process and machinery in the manufacture of large quantities of india rubber, to the great damage and injury of your orator in the premises. And the said defendants persist in said infringement and wrong to your orator, notwithstanding he has notified them and called upon them to desist, and account with him for the damages and injury he has already suffered for their wrongful act.

All which acting and doing are contrary to equity and good conscience, and tends to the manifest injury of your orator in the premises.

and after the expiration of the term for which said letters patent were originally granted, as aforesaid, and such proceedings were had on said application, that the said patent was extended by the Commissioner of Patents, for such further term of seven years from and after the 31st day of August, A. D. 1850, as by a copy of said patent, and of the certificate of extension thereof hereunto annexed, will more fully appear.

And your orator further showeth unto your honors, that said extension of said letters patent, enured to the sole and exclusive benefit of said Edwin M. Chaffee, and the right to make, and use, and vend to others to be used, the said improvement and invention vested in him, and became and was his property, with the full right and power to dispose of the same for and during the extended term of seven years, as aforesaid.

And your orator further states, that the said Chaffee, and those claiming under him, have been engaged in building and operating said machines, and in using said process in the manufacture of india rubber, described in the specification annexed to said letters patent, ever since the said letters were granted; that the novelty and validity of said original patents have never been successfully disputed; and that the same have been expressly confirmed by the Commissioner of Patents, after opposition and a full hearing thereon in granting the extension of the same; and he further states that during the original term of said patent, great numbers of said machines were in use in connection with the said patented process in the States of Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and other parts of the country, and great numbers of persons were using the same and claiming the right to do so by the license and permission of said Chaffee, and the novelty and usefulness thereof, during the whole of said period; and that the said defendants, by their arguments in writing, and their acts and conduct relative to the same, have expressly admitted the novelty and validity of said patent, and of the validity of the extension thereof.

And your orator further states, that since the expiration of the term for which such patent was originally granted, the said defendants have had no right, title, or interest in said extended patent, and no license or permission from the said Chaffee, to use the improvement or invention thereby patented and secured to said Chaffee for said extended term.

And your orator further states, that since said extension of said patent, viz.: since the 31st day of August, A.D. 1850, the said defendants have been using the machinery and the process patented by the said Chaffee in violation of his the said Chaffee's right under said extended patent, and in infringement of the said patented improvement or invention; that is to say, they have used machines for grinding india rubber, and spreading the same upon cloths, leather, and other articles, by the use of heated cylinders, with the

rolling and slipping motion thereof, without a solvent, constructed and operated in substantially the same manner, and using substantially the same process in connection with the same, and in coloring the said india rubber so manufactured, as is described in the schedules annexed to the said letters patent, granted and extended as aforesaid to said Chaffee, for an improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process. And that the said defendants have so used the same without a license or permission from said Chaffee, or from your orator, his assignee, and without any right or title thereto, or to the use thereof.

And your orator further states, that the said Edwin M. Chaffee, having the full title to said extended patent, and good right to dispose of the same, did on the first day of July, A.D. 1853, by his deed of assignment of that date, in writing, duly executed and recorded in the Patent Office, and for a valuable consideration to him paid as therein expressed, transfer, assign, and convey to your orator, all his title to said invention and to said patent for said extended term, as by said original deed of transfer, to be produced in Court when required, and by a copy thereof hereunto annexed, will fully appear.

And your orator further states, that in and by said deed of assignment, the said Chaffee transferred and conveyed to your orator, all his right, title, and interest, and power in, to, or over any and all damages, or claim, or right to damages, against any and all persons whatsoever, for or by virtue of, or arising from any and all infringements of said letters patent, or for which a right of action or suit has accrued or shall accrue to said Chaffee, whereby your orator has become entitled to claim, have, and recover of said defendants, all the damages which have accrued to said Chaffee before the date of said deed of assignment, as well as all that have accrued to your orator since the said deed was executed.

And your orator further states, that the said defendants have no license or permission from your orator, or from any one authorized to grant the same, to continue the use of said patented machinery and process; but the said defendants, nevertheless, in violation of your orator's rights, and in infringement of said patent, have used and continue to use said patented process and machinery in the manufacture of large quantities of india rubber, to the great damage and injury of your orator in the premises. And the said defendants persist in said infringement and wrong to your orator, notwithstanding he has notified them and called upon them to desist, and account with him for the damages and injury he has already suffered for their wrongful act.

All which acting and doing are contrary to equity and good conscience, and tends to the manifest injury of your orator in the premises.

In consideration whereof, and forasmuch as your orator can only have adequate relief in this Court where matters of this kind are properly cognizable and relievable; to the end, therefore, that the said Union India Rubber Company; and their confederates, when discovered, may, upon their several and respective oaths, and to the best and utmost of their repective knowledge, information, and belief, full, true, and perfect answer make to all, and singular, the matters aforesaid, and that as fully and particularly as if the same were now repeated, and they severally interrogated thereto, and more especially that they may set forth particularly,

First. Whether the said defendants, or some of them, have not, and are not still using, in the manufacture of india rubber, a process of preparation and application of india rubber to all kinds of cloths, leathers, and other like substances, without the use of a solvent, substantially in the manner described in the specification annexed to said letters patent?

Second. Whether the said defendants, or some of them, have not used the process of the mixing of coloring with india rubber, without bringing it into a state of solution, in the manner described in said specification, or in a manner substantially the same?

Third. Whether that said defendants, or some of them, have not used the machinery described in said letters patent, containing heated cylinders with a rolling and slipping motion thereto, and applied the same to grinding the india rubber, and spreading it on and covering cloths, leathers, and other substances, constructed, operated, and applied in substantially the same manner described in said letters patent?

Fourth. Whether they have not used the process and the said machinery since the thirty-first day of August, 1850, in the manufacture of india rubber, which has been manufactured by means of the same?

Fifth. Whether the said defendants, or some or either of them, have not taken or held licenses, or a license to use said processes and machinery from Charles Goodyear, or some other person, and if so, from whom, when given, in what form, and for what length of time, and what were the tariffs or other considerations paid therefor?

And that the defendants may answer the premises, and that they may be decreed to account with your orator for the use of said processes and said machinery, and for the quantity of india rubber manufactured by the same in violation of the said letters patent, and to pay over to your orator such sums as he might have made by the use of said processes, and by the making of said machines, and by the manufacture of said quantity of india rubber as aforesaid, if the same had been used, made, and manufactured by himself, and that the defendants be perpetually enjoined from any further violation of your orator's rights, as secured to him by said letters patent, and

the assignment thereof, and that your orator may have such other and further relief in the premises as may be consistent with equity and good conscience.

May it please your honors, the premises considered, to grant unto your orator, not only the writ of injunction issuing out of and under the seal of this honorable Court, directed to the said Union India Rubber Company, the defendants in this bill, commanding and enjoining them, and each of them, not to manufacture india rubber by the use of all or any of the process above described, or by the use of the machinery aforesaid, said processes and machinery being substantially as patented by the said Chaffee in his said letters patent, but also the writ of subpœna issuing out of and under the seal of this Court, directed to the said defendants, commanding them and each of them to be and appear at a certain day, and under a certain penalty therein to be expressed, before this honorable Court, and then and there full, direct, and perfect answer make to the premises, and further, to stand to, perform, and abide such order, direction, and decree as to your honors shall seem meet.

And as in duty bound, will ever pray.

HORACE H. DAY.

GEO. GIFFORD,
Solicitor and Counsel for Complainant.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER CO. } In Equity.

I, Horace H. Day, complainant in the above-named suit, being duly sworn, on oath, depose and say, that the statements and allegations in the foregoing bill of complaint contained and set forth, are true, according to my best knowledge, information, and belief; and that I believe that I have a good title to the patent therein named and set forth, and that I have a right to bring this suit.

HORACE H. DAY.

Subscribed and sworn to before me, this fifth day of Sept., 1853.

R. E. STILLWELL,
United States Commissioner. Southern District of New York.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER CO. } In Equity.

I, Edwin M. Chaffee, of the city and county of Providence, in the district of Rhode Island, on oath, depose and say, that the fore-

going bill has been read over to me, and that the facts and statements therein contained, relating to the issue and extension of the letters patent granted to me, and the transfer of the same by me to Horace H. Day, and in relation to the use of said patent machines and process, are true; and that the other facts stated therein are true, according to the best of my information and belief; and I further say, that I am the person named in said bill as the inventor of the improvement therein described, and that at the time of making the invention, and at the time of the application for and the granting of the letters patent, and at the time of the application for the extension and the granting of the same, I verily believed that I was the first and original inventor of the improvements specified in the schedules annexed to said letters patent, and that after the experience of many years and the matters being much discussed, I now believe that I was the first and original inventor thereof, and that it had never been known or used before his said invention thereof.

EDWIN M. CHAFFEE.

Subscribed and sworn to before me, this 3d day of September, 1853.

SAMUEL W. PECKHAM,
U. S. Commissioner, Rhode Island District.

(*Patent to Chaffee.*)

The United States Patent Office. To all persons to whom these presents shall come, greeting:

This is to certify, that the annexed is a true copy from the Records of this office.

[L. S.] In testimony whereof, I, Edmund Burke, Commissioner of Patents, have caused the seal of the Patent Office to be hereunto affixed this seventeenth day of January, in the year of our Lord one thousand eight hundred and forty-six, and of the Independence of the United States the seventieth

EDMUND BURKE.

The United States of America. To all whom these Letters Patent shall come:

Whereas, Edmund M. Chaffee, has alleged that he has invented a new and useful improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, which he states has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor

or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the treasury of the United States the sum of thirty dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are therefore to grant, according to law, to the said Edwin M. Chaffee, his heirs, administrators, or assigns, for the term of fourteen years from the thirty-first day of August, one thousand eight hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said improvement, a description whereof is given in the words of the said Edwin M. Chaffee in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these Letters [L. S.] to be made Patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand at the City of Washington, this thirty-first day of August, in the year of our Lord, one thousand eight hundred and thirty-six, and of the Independence of the United States of America the sixty-first.

JOHN FORSYTH,
Secretary of State.

Countersigned and sealed with the seal of the Patent Office.

HENRY L. ELLSWORTH,
Commissioner of Patents.

(The Shedule referred to in these Letters Patent and making part of the same.)

To all to whom these presents shall come:

I, Edmund M. Chaffee, of Roxbury, in the county of Norfolk and commonwealth of Massachussetts, send greeting.

Be it known, That I, the said Edwin M. Chaffee have invented, made, and applied to use, a new and useful improvement in the preparing, coloring, and applying India Rubber to cloth of all kinds, leather and other articles, without the use of a solvent, which I call "Chaffee's Improvement in Rubber," specified in the words and figures following, and exhibited in the drawings annexed. The India Rubber undergoes an operation, preparatory to its being applied to the cloth and other articles, and the following is a description of that part of the machinery and apparatus employed for the purpose: A hollow cylinder or roller, six feet long and twenty-seven inches in diameter, heated by steam or otherwise to about two hundred degrees of Fahrenheit, is surmounted by another cylinder of like length and

heated in like manner, and eighteen inches in diameter. The large and small cylinders come in contact with each other on one side at about ten inches distant from the top of the large one. The large cylinder revolves much faster than the small one, so that there is a compound rolling and slipping action between the cylinders. Five bars are placed on the top of the large cylinder, side by side each other, leaving a space of about three-fourths of an inch between them. The bars are one and a half inch thick, twelve inches wide, and about six feet long. The edges which lie in contact with the cylinder, are convex or circular, and so constructed that when one corner of the edge touches it, the other recedes from it, thus leaving a wedge-like space for the rubber to enter between the bars. What I mean by the corner of the edge is, the angles formed by the two sides of the bars and their circular edges, the one being an acute and the other an obtuse angle, which are more or less acute or obtuse according to their situation on the cylinder—the said bars being substitutes for so many cylinders—but are better to sifting the coloring between them; they are held in contact with the cylinder, or nearly so, by weights or screws arranged for the purpose. If the rubber is to be colored, the coloring matter, in fine powder, should be sifted or otherwise put into the spaces between the bars, where it will be incorporated with the rubber as it passes between the bars and the cylinder. A revolving apron is attached to the machine which carries the rubber between the two cylinders,—or a plank may be substituted, if placed nearly in contact with the under side of the small cylinder, and the rubber put on in contact with the cylinder.

The operation of the foregoing apparatus is as follows: The rubber is first cut into pieces about two inches square, and from one-eighth to one-fourth of an inch thick; it is then spread upon the apron that conveys it to the cylinder, where the compound rolling and slipping action of the heated cylinders, softens and tears the rubber into fine threads or thin sheets, which at the same time mixes with the coloring which is sifted into the spaces between the bars, thus it passes all the bars successively, and undergoes this operation several times before it goes from the preparing and coloring part of the machine, to the coating or covering part of the machine.

The coating or covering part of the machine or apparatus for applying the prepared rubber to the cloth and other articles, consists of four hollow cylinders, six feet long, heated by steam or otherwise to about two hundred degrees of Fahrenheit, placed one above the other. For conveniently describing their operation, I number them 1, 2, 3 and 4, beginning at the bottom. No. 1 is eighteen inches in diameter; Nos. 2 and 3 are each one foot in diameter, and No. 4 is eighteen inches in diameter; No. 3 moves much slower than the others, thus creating a compound rolling and slipping action between

the surfaces of No. 2 and No. 3, and also between No. 3 and No. 4; sometimes the three first cylinders only are used, in which case the gearing for driving the fourth cylinder is disengaged and the cloth or other article to be coated is made to pass into the covering machine between the 2d and 3d cylinders, thence it passes half round the 2d and 1st cylinders, the rubber side coming in contact with the 1st and passing nearly round it whence it is taken off and rolled up. The prepared rubber is conveyed by hand or otherwise from the preparing part of the machine, whilst warm, and put into the hopper, which is placed between the 2d and 3d cylinders to receive it.

The hopper is about two inches narrower than the cloth or other article intended to be coated. The cloth enters between the bottom and 2d cylinder, whilst the rubber enters between the bottom and 3d cylinder, when the coating of the cloth is effected. There is advantage in passing the rubber between the 3d and 4th cylinders, if the coating part of the machine before it, comes in contact with the cloth which warms and softens it, so that it will adhere better to the cloth, to which, also, the rubber is presented more uniformly than when promiscuously put into the hopper. I sometimes put the prepared rubber directly upon the cloth or other article to be covered, between the 2d and 3d cylinders, and then disengage the gearing of the 3d cylinder, which will not then revolve. The bottom of the hopper in this case does not enter so far between the cylinders. The sides of the hopper must in all cases enter as far as possible without being pinched by the cylinders, to which they must be well fitted. Another mode of using this machine is as follows: The rubber alone enters between the 2d and 3d cylinders, where it is formed into a sheet which passes half round the 2d, the cloth entering at the same time between the 2d and 1st, where the sheet of rubber is transferred from the cylinder to the cloth, then passing nearly round the first cylinder, where it is taken off and rolled up as before. In coloring I sometimes make the rubber into sheets, apply the coloring and roll the same into a mass, and then pass it through the cylinders, repeating until sufficiently colored. Again, I mix the coloring with small pieces of rubber, and let both them go between the cylinders or cylinder and bars together—mix more and repeat until sufficiently colored, when it goes between a bar and cylinder—or between two cylinders, one going faster than the other—the rubber comes through in fine particles so long as the coloring is added. The machine is an entire one, although in the drawings herewith, for the purpose of exhibiting more distinctly the several parts and operations, it is divided into sections—Nos. 1 and 2, and Nos. 3 and 4. Figure 1 is the coating part of the machine, and a perspective view of it exhibited in the drawing annexed.

A A A A A A, is a cast iron frame or housing for the rollers or cylinders. B is a brace connecting the two parts of the frame together. C C are two timbers upon which the frame stands. 2, 3, and 4 are the cylinders. No. 1 cylinder is behind the frame of bars

D. D D D D D are five bars called checks through which the cloth passes before it enters the rolls. E is a roll upon which the cloth is wound before being coated. F is a check weight attached to a cord passing over roll E. G G are screws regulating the pressure of the rolls 1, 2, 3, and 4. H is a cog-wheel that drives cylinder No. 1. I is a cog-wheel attached to the cylinder No. 4, and is driven by the wheel H. K is a cog-wheel attached to cylinder No. 3. L is a cog-wheel upon the roll of No. 1. M is a pinion, matching with K and L, and serves to give the proper direction to the wheel K, L being the driving wheel. N is a pulley attached to the roll or shaft O, seen in the sectional view. The shaft having a pinion upon its other end, which drives the cog-wheel H.

At R is seen the cloth passing between the cylinders 2 and 3. At S is seen a sheet of India Rubber, which comes in contact with the cloth whilst passing between the cylinders 2 and 3. P in the sectional view is a roller driven by the short belt from the shaft O. Q is a small roll upon which the cloth is wound when it leaves the cylinder No. 1. It is made to revolve by resting on the rolls O and P—the surface of O and P revolve a little faster than the cylinder No. 1. At T the cloth is seen leaving No. 1 cylinder. Between the cog-wheel H and the frame A is a cog-wheel upon the cylinder No. 1, and also one upon the cylinder No. 2—the wheels being the same size of the cylinders to which they respectively belong. That upon No. 1 drives the one upon No. 2, and consequently the cylinder No. 2. Fig. 2, is a sectional view, the letters of which refer to the same parts as those on No. 1. U is a hopper, not seen in the perspective, into which the prepared Rubber is put by hand or otherwise while hot as it comes from the preparing apparatus. When three rolls only are used, the hopper is put upon the opposite side of the cylinders, between No. 2 and 3. Fig. 3 is a perspective view of the preparing part of the machine A A A. A A A is a frame of cast iron. B B B B are timbers upon which the frame rests. C is a large cylinder 6 feet long and 27 inches in diameter. D is a cylinder 6 feet long and 18 inches diameter. E is a shaft 6 inches diameter. M is a pinion upon the shaft E, which drives the cog-wheel K, and consequently the cylinder C. K is a cog-wheel upon the cylinder C. L is a pulley upon the shaft E, which is the first power. N is a cog-wheel upon the cylinder C, which drives the cog-wheel O upon the cylinder D. G G are screws regulating the pressure of the cylinders. F E are five bars of iron, seen more distinctly in the sectional view. They are 1 foot wide, 1¼ inches thick, and about 7 feet long. H H are two blocks of iron having holes in them corresponding to the end of the bars F, into which the bars are put and fastened by keys. H are screws regulating the pressure of the bars upon the cylinder C. S is an apron or endless belt which carries the rubber to be prepared, between the two cylinders C and D (the same is more distinctly seen in the sectional view). P Q are

rolls around which the apron revolves (the apparatus for propelling the rolls P Q is not represented). At R in the sectional view is seen the prepared rubber as it leaves the last bar and shrinks up into a mass. Fig. 4 is a sectional view, the letters of which refer to the same parts as those of Fig. 3.

What I claim as new and my invention is the preparation and application of India Rubber to all kinds of cloths, leathers, and other like substances without the use of a solvent, in the manner aforesaid. I also claim the mixing of coloring with India Rubber without bringing it into a state of solution, in manner above described. And I further claim the use of the heated cylinders with the rolling and slipping action thereof, as applicable to India Rubber in the manner aforesaid, thereby preserving the strength of the Rubber and at the same time applying it to and covering cloths, leathers, and like substances, with greater facility and at less expense than by any other process heretofore known or used.

EDWIN M. CHAFFEE.

Witnesses,
HORATIO BASS,
D. A. SIMMONS.

(Order for Extension of Patent.)

In the matter of the application of EDWIN M. CHAFFEE for an extension of his patent for an "Improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process."

Monday, the 5th of August, 1850, having been appointed by published notice in the newspapers for hearing the application of Edwin M. Chaffee for an extension of the patent granted to him the 31st August, A. D. 1836, said hearing was postponed to the 20th August, A. D. 1850, and continued from day to day till the thirtieth day of August, 1850, at which time the undersigned, having duly considered the evidence adduced, *orders that the said patent be extended.*

THOMAS EWBANK,
Commissioner of Patents.

(Certificate of Extension.)

Whereas, upon the petition of Edwin M. Chaffee for an extension of the within Patent, granted to him on the thirty-first day of August, eighteen hundred and thirty-six, the undersigned, Commissioner of Patents, in accordance with the 18th section of the Act of Congress, approved the 4th of July, 1836, entitled "An Act to promote

the progress of the useful arts, and to repeal all acts heretofore made for that purpose," and the act approved the 27th of May, 1848, entitled "An Act to provide additional Examiners in the Patent Office, and for other purposes," did on the thirtieth day of August, eighteen hundred and fifty, certify that the said Patent *ought to be extended;*

Now therefore, I, Thomas Ewbank, Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend said Patent, and certify that the same is hereby extended for the term of seven years from and after the expiration of the first term, viz.: the thirty-first day of August, eighteen hundred and fifty, which certificate, on the Petition of the Applicant, together with this Certificate, having been duly entered of record in the Patent Office, the said patent has now the same effect as though the same had been originally granted for the term of twenty-one years.

In testimony whereof, I have caused the seal of the Patent
[L. S.] Office to be hereunto affixed, this thirtieth day of August, one thousand eight hundred and fifty, and of the Independence the seventy-fifth.

THOMAS EWBANK,
Commissioner of Patents.

(Assignment by Chaffee to Day.)

Whereas, I, Edwin M. Chaffee, of Providence, in the State of Rhode Island, have discovered and invented certain new and useful improvements in grinding and working india rubber without a solvent, and in the machinery for accomplishing the same, for which letters patent were granted by the United States, dated the 31st day of August, A. D. 1836, to me, the said Chaffee, and which letters patent have been duly and regularly extended to me by the Commissioner of Patents of the United States, for the term of seven years from the expiration of the original patent:

And whereas, Horace H. Day, of the city and State of New York, is desirous of acquiring said invention and letters patent, and all right and interest in and to the same, for and during the term for which said letters patent were extended, and for and during any additional term for which the same may be extended or reissued; and all my right, title or interest in or to any and all damages, which have been committed by any infringement of said letters patent, by any person or persons, and for which a right of action or suit has or shall accrue to me; and all my right, title and interest, in or to any and all contracts, agreements, and licenses which have been made with any person or persons, in relation to said patent or invention, or the right to make, use, or vend the same, and all power which I possess or have in relation thereto—not hereby intending to acknowledge the validity of any contract made with or by William Judson, as my attorney.

Now, these Presents Witnesseth, That for and in consideration of the sum of eleven thousand dollars, lawful money of the United States, to me in hand paid by the said Horace H. Day, the receipt of which I do hereby acknowledge, I have assigned, sold and set over, and do hereby assign, sell and set over unto the said Horace H. Day and his executors, administrators and assigns, said invention, and every part thereof, and the said letters patent for the whole of the term of seven years for which said letters patent were extended, or for the term for which the same shall hereafter be extended as aforesaid, or reissued, in and for the whole of the United States and Territories, and all my right, title and interest in and to the same and every part thereof; also all of my right, title and interest and power, in, to and over any and all damages or claim for, or rights to damages, against any and all persons whatsoever, for or by virtue of or arising from any or all infringements of said letters patent, or for which a right of action or suit has or shall accrue to me; also all my right, title and interest in, and power over, any and all contracts, agreements, and licenses, if any, which has or have been made with any person or persons, in relation to said letters patent or invention, or to the right to make, use or vend said invention, together with all the benefit, profit and advantage which would have accrued to me therefrom, or by virtue thereof, had this assignment and transfer not have been made. The same to be held and enjoyed by the said Horace H. Day, his executors, administrators and assigns, for his and their own use and behoof, forever, as fully and entirely as the same would or could have been held and enjoyed by me, had this transfer and sale not been made. And for the purpose of the better securing unto the said Horace H. Day the aforesaid rights, powers, interests and advantages, I do hereby irrevocably nominate and appoint said Day my true and lawful attorney in my name, place and stead, and for his own use and benefit, and for the use and behoof of his legal representatives, to sue for and collect and recover, all damages for which I am entitled and for which I have any legal claim, or to which a right of action has accrued to me for, by virtue of or on account of any and all infringements of said letters patent, and to compromise and settle for the same as and on such terms as he shall see fit, and in my name to execute and deliver releases and requittances therefor, with or without seal; and in all respects to exercise as full power and control and authority over the same as I could do if personally present, and this assignment had not been made. And also in my name, place and stead, and for his own use and that of his legal representatives, but at his own expense, to enforce and compel by actions, suits, or otherwise, the performance and fulfilment of all contracts, agreements and licenses, or to revoke or compel the exercise of all powers which have been made, entered into, given or granted, in relation to said invention or letters patent, or the right to make, use and sell said invention, as fully and

completely, to all intents and purposes, as I could do if personally present.

Witness my hand and seal, at Providence, in the State of Rhode Island, the first day of July, A. D. 1853.

EDWIN M. CHAFFEE. [SEAL.]

In presence of
T. A. JENCKES,
N. RICHARDSON.

(Indorsed:) Horace H. Day *v.* The Union India Rubber Co. C. C. U. S., S. Dist. N. Y. Geo. Gifford, solicitor and of counsel. Filed September 6, 1853.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY.

Bill in Equity—Copy Answer.

The answer of the Union India Rubber Company, an incorporated company, duly and legally incorporated by the laws of the State of New York, reserving to itself all objections to the many errors and insufficiencies manifest upon the face of said bill, is as follows, to wit: the said company by its president and secretary make answer to said bill, and say, that they have been informed and believe, and therefore the defendants admit, that the said Chaffee obtained said patent, and that the same was afterwards duly and legally extended, as set forth in said bill, but whether said Chaffee was the first and original inventor of the improvements by him claimed in said bill, the said company, and the president and secretary thereof, are ignorant, and therefore leave the complainant to make such proof thereof as he may be able and is advised is material; and whether said Chaffee and those claiming under him have been engaged in building, and operating said machines and using said process, as set forth in said bill, since the date of said letters patent; and whether the novelty, originality, and validity have ever been disputed or been confirmed, or been used, as set forth in said bill, the said company, and the president and secretary thereof, are ignorant, and leave the complainant to make such proof thereof as he may be able, and is advised is material; but the defendants are not aware, and therefore do not admit, that they, in arguments, in writing, or in any other way, have expressly or impliedly admitted the novelty or validity of said patent, or the extension thereof, any further, or in any other way, than they have admitted the same in this answer.

And the defendants, by their president and secretary, further an-

swering, say, that they have been informed, and believe, and therefore admit, that the complainant, on some consideration, on or about the first of July, 1853, made some bargain with said E. M. Chaffee for some interest which he alleged he then had in said patent, and from him took some conveyance of the same; but of that conveyance as well as the consideration for the same, and what interest the complainant gained thereby, the said company, and the president and secretary thereof, are ignorant, and therefore leave the complainant to make such proof thereof as he may be able, and is advised, is material.

And these defendants, further answering, deny the allegation in said bill, that since the extension of said patent they have had no right, or title, or interest in said extended patent, and no license, permission, or authority to use the inventions and improvements described, claimed, and alleged to be secured to said Chaffee in his said patent, as is erroneously stated in said bill; but on the contrary, the defendants aver that they now have, and, since the extension of said patent have had a good right, and the same right to use all said improvements in the manufacture of all the india rubber goods, which they have manufactured, the same as before the expiration of said patent, and have accordingly used said improvements in their aforesaid manufactures, the same as before the extension of said patent; and, the defendants state and show unto your honors, that in the year 1844, Goodyear became the owner of certain improvements secured to him by patents for the preparation of india rubber for manufacturing purposes; and the said Goodyear, being the owner of said improvements, to render the same more profitable in the manufacture aforesaid, purchased, and in said year, 1844, became the sole owner of said patent, granted to said Chaffee, and of all exclusive rights and privileges granted to him thereby; and so continued the owner thereof during the unoccupied term of said patent, except so far as he licensed others to use said improvements, and that in the year 1848, for certain considerations, said Goodyear gave a license to the Newark India Rubber Company, so called, situate in Newark, New Jersey, and to Ford & Co., a company located in New Brunswick, in said State, and carrying on business there, and to L. Candee and Company, represented by the said Candee, situated in New Haven, in Connecticut, and to the Hayward Company, an incorporated company, located at Colchester, in said State, to manufacture boots and shoes of india rubber, prepared according to his improvements, and in said manufacture to use all said Goodyear's improvements, including the improvements specified in the said Chaffee's patent; and said companies went immediately into the use of said improvements in the manufacture of india rubber boots and shoes, and have continued the use thereof to the present time, and now use the same in the manufacture aforesaid.

And these defendants, further answering, show unto your honors, that, in the year 1848, said Goodyear, for certain considerations,

gave to William Rider, Emery Rider, John Rider, and Jonathan Trotter, and their assigns, a license to use all his inventions and improvements made or owned by him, or in which he had an interest by patent, or otherwise, made or to be made, in relation to the treatment and preparation of india rubber for manufacturing all army and navy equipments, sheet-rubber of every kind, travelling and other bags, except certain bags with sliding mouth-pieces; also pails, life preservers, and a great number of other articles named in said license; which license included the right to use the improvements named and specified and claimed in said Chaffee's patent, then owned by said Goodyear; which license was duly executed by the parties, on the 1st of July, 1848, and is ready in Court to be shown as this honorable Court may direct; and which license was duly assigned and transferred to the defendants as an incorporated company on the 4th day of December, 1848, as by said written transfer, ready in Court to be shown, may more fully appear, which license and improvements the defendants have ever since used in the manufacture of the various articles named in said license, and paid the tariff, agreed to be paid in and by said licenses, according to the terms thereof.

And the defendants further show unto your honors, that on the 5th day of February, 1847, said Charles Goodyear, for certain considerations and on certain terms, granted unto Jonathan Trotter and his assigns, a full and exclusive right and license, to use any and all the machinery, compositions, and methods of manufacturing and preparing india rubber, and to use all said Goodyear's improvements then made and owned by him, including the improvements named in the Chaffee patent then owned by said Goodyear, in the preparation of india rubber for manufacturing any and all the articles named in said license given to said Trotter, to wit, wearing apparel of all kinds, except boots and shoes; bathing caps and men's gloves, which license was duly executed and dated as above, as will more fully appear when produced in Court; and which license was, on the 4th day of December, 1848, duly and legally assigned and transferred to the defendants, then and now an incorporated company, by a written instrument, dated the 4th day of December, 1848, duly executed, as will more fully appear by the same, ready to be produced in Court.

And the defendants, further answering, say, that from the time they received said licenses they have been carrying on the business of manufacturing and selling india rubber goods such as said, Company had a right to manufacture and sell under said licenses; in so doing have used, under said Goodyear's license, said Chaffee's improvement specified and claimed in said patent to the present time, and are now using the same, and have paid the stipulated tariff therefor, which the defendants submit to this honorable Court, they have a right to do, and to use said improvements, after the extension of said patent, in the same manner they used them before the said extension of said patent.

And the defendants, further answering, say, that they have been informed, and believe, and they therefore allege and insist, that a short time before the expiration of said patent, it was agreed by Edward M. Chaffee and Charles Goodyear and his shoe licensees, and their associates, and William Judson, Esq., who had become interested in the proceeds or income derived from said Goodyear's patents, and who acted as the agent and attorney of the parties, and also as the agent and attorney of said Chaffee, that an application should be made to the Commissioner of Patents to extend said Chaffee's patent; that the application should be made in the name of said Chaffee, but at the expense of said Goodyear and his licensees and associates, and said Judson so far as he was interested; that said Chaffee was to aid in procuring the proper evidence, and make his own affidavit and proper statements and papers, and do what might be requisite as advised by counsel, to insure the success of said application; but said Chaffee was to be at no expense on account of the application, whether it succeeded or failed; and if the application succeeded and the patent was extended, said Goodyear and his licensees, and their associates, were to continue to use and to have the right to use of the improvements specified in said patent, the same as they had the right before the expiration of said patent, and that said Chaffee was to receive from said Goodyear and his associates and licensees, a reasonable sum to be agreed upon by the parties payable annually during the extended term of said patent. and to save said Chaffee harmless from all the expenses of the application for the extension of the patent, whether the same was extended or not. This was a verbal arrangement made and acted upon by the parties for the extension of said patent, as the defendants have been informed and believe.

And the defendants show unto your honors, that the application for the extension of said patent was made under that arrangement; and after great opposition and considerable expense, the patent was extended on the 31st day of August, 1850, for the term of seven years from said date; that the application for said extension was attended with a considerable bill of expenses, but the precise amount is unknown to the defendants, which expenses, as the defendants have been informed and believe, were all or nearly all paid by said Judson, acting for said Goodyear and associates, and licensees, out of funds by them provided for that and other purposes, placed in said Judson's hands, and that they are ready to pay whatever bills remain, if any remain unpaid, which arose out of said application as soon as the same are made known to them, as the defendants have been informed and believe.

And the defendants further show unto your honors, that soon after the extension of said patent, and before all the bills for the expenses thereof had been got in and paid, said Chaffee and said Judson and Goodyear, and licensees and associates, said Judson acting for him-

self and such of them as were not present, came together to carry out the terms on which said patent had been extended and should be held, and how much said Chaffee should be paid by said Goodyear, and licensees and associates, and said Judson, for the use they were to continue to have of said Chaffee's aforesaid improvements; and the parties then and there recognized and admitted the said agreement, and understanding upon which the application for the extension of said patent had been made; and further to secure the interests of the parties concerned, and to settle the amount of the annuity which should be paid to said Chaffee, which was at first agreed to be twelve hundred dollars per annum, payable in like manner, as the defendants have been informed and believe; and also to secure to said Chaffee the payment thereof according to agreement, the parties entered into written stipulations, as the defendants have been informed and believe, substantially as follows:

Whereas, I, Edwin M. Chaffee, have lately procured an extension of my patent dated August 31st, 1836, for seven years, from the expiration thereof, the expenses of which have been large, by reason of the opposition thereto, but which expenses have not yet been ascertained, and cannot be at present.

And whereas, said patent at the time it was extended, stood in the name of Charles Goodyear, and was held for his benefit, and the benefit of those who had a license, or who had a right to use his metallic or vulcanized india rubber, or india rubber prepared and cured according to and under his patent, dated June 15, 1844, and reissued December 25th, 1849.

And whereas, said Charles Goodyear, agreed with me for himself and others using my said patent under him, that they would be at the expense of applying for said extension of said patent, and make me an allowance for the use thereof, in case the same should be extended, at and after the rate of twelve hundred dollars per annum, to commence on the 31st of August, 1850, and payable quarterly, that is to say, three hundred dollars on the first days of December, March, June, and September, in each and every year during the present, or any further extension of said patent, and during any reissue of the same, and until said patent, or any reissue thereof, shall be set aside as void in the highest court to which the same can be carried.

And, whereas, William Judson, Esq., has had the management of said application for said extension, and has paid and become liable to pay the expenses thereof, and agreed to guarantee me the payment of said sums of money, according to the terms and at the times above specified.

Now I do hereby, in consideration of the premises, and to place my patent so that in case of my death, or other accident or event, it may enure to the benefit of said Charles Goodyear, and those who hold a right to the use of said patent, under and in connection with his licenses, according to the understanding of the parties interested,

nominate, constitute, and appoint said Wm. Judson, my trustee and attorney, irrevocable, to hold said patent, and have the control thereof, so that no one shall have a license to use said patent or invention, or the improvements secured thereby, other than those who had a right to use the same when said patent was extended, without the written consent of said Judson, first had and obtained.

And said Judson for himself and those interested, agrees with me, said Chaffee, my executors, administrators, and assigns, that the expenses of extending said patent, shall all be paid without charge to me; and further, that I shall be paid sums of money, at the times and according to the terms above recited; and said Judson, and those for whom he acts, are to be at all the expense of sustaining and defending said patent, without any charge to me. And it is further expressly understood and agreed, that I am to have the right to use said patent and improvement in any business which I may carry on.

As witness my hand and seal this fifth of September, 1850.

EDWIN M. CHAFFEE.

Attest—G. WOODMAN.

Which agreement the defendant believes to be truly and correctly set forth as above; but they are not in the possession of the original agreement, but hope to be able to prove the same, and the due execution thereof by the parties thereto, and that the above is a correct copy thereof.

And the defendants, further answering, show unto your honors, that immediately after the extension of said patent, the parties to the arrangement aforesaid, on which the extension was made, in and by said written instrument, acknowledged said agreements, and that at the time said patent was extended, it was held by said Goodyear and for his benefit and for the benefit of said licensees, who had a right to use said Goodyear's improvements for preparing and curing india rubber for manufacturing purposes, secured to him by a patent of June 15th, 1844, and reissued 25th December, 1849; and the parties to said agreement for extension, after acknowledging the terms of the agreement on which said extension was procured, agreed with said Chaffee, in and by the written instrument aforesaid, that they would allow and pay unto said Chaffee, twelve hundred dollars, afterwards made fifteen hundred dollars per annum, payable quarterly, during the present or any other extension of said patent, unless the same should be sooner declared to be void; and said Wm. Judson, acting for himself and for said Goodyear and his licensees and associates, agreed to guarantee the payment of said annuity to said Chaffee, according to said agreement, all which was well known to said Goodyear and his licensees and associates, and done with their assent; and in order to place said Chaffee's patent so that in case of his death, or other accident or event, it might enure to the benefit of said Goodyear, and those who under him held a right to use said

patents according to the understanding of the parties interested, said Chaffee made said Wm. Judson his trustee and attorney, irrevocable, to hold said patent, and have the control thereof, so that no one should have a license to use said Chaffee's patent, invention or improvement, other than those who had a right to use the same at the time said patent was extended, unless by the consent of said Judson; and said Judson then and there in and by said instrument bound himself and those for whom he acted, to wit, said Goodyear and his licensees and associates, that the expenses of extending said patent should be paid without charge to said Chaffee, and that said Judson and those for whom he acted, would be at all the expense of sustaining and defending said patent, without any charge to said Chaffee; and it was further agreed that said Chaffee should have the use of his said improvements, specified in his said patents, notwithstanding said agreement, in any business which he, said Chaffee, might carry on.

And these defendants further show unto your honors, that said agreement has been carried into effect, and these defendants have been and are manufacturing goods under said Goodyear's licenses, and including a right to use said Chaffee's aforesaid improvements, with his knowledge and without any objection by him, and so continue to manufacture goods under their aforesaid licenses, including a right to use said Chaffee's patent improvements, and for the use thereof have paid large sums of money annually to said Goodyear and his shoe licensees, and said William Judson, and continued to pay the same, as the same became due, until about the first of July last, when the defendants were notified by said Day, the complainant, that he had purchased of said Chaffee said patent, and that the defendants had no right to use the same, which was the first notice the defendants ever had that they had no right to use said Chaffee's patented improvements; and although said Chaffee well knew, as the defendants believe, that the defendants were in the use, and had been in the use of his said improvements under the aforesaid authority and licenses, from the time the defendants became an incorporated company, and from the time said patent was extended, as well as before, he never gave the defendants any notice while he had any interest in said patent, questioning or denying the defendants right to use his aforesaid patented improvements in the manufacture of all the goods which they had a right to manufacture under said Goodyear's patent.

And the defendants further show unto your honors, that they have been informed, and believe, and so state the facts to be, that said William Judson at the time, and while the application for the extension of said patent was pending, and before and afterwards, received from said Goodyear and his licensees, very large sums of money to defray the expenses of the litigation arising from infringements committed on said Goodyear's patent, including said Chaffee's patent,

and to defray the expenses of sustaining and defending said patents, of reissuing and extending the same; and that said Judson has been fully paid all the expenses he has been at, and been furnished with large sums of money, more than sufficient to meet all expenses in the premises, including all the expenses and money paid out by him in sustaining the application for the extension of said Chaffee's patent; and that at the time said Chaffee made said assignment of said patent to the complainant, there was nothing due to him on said agreement to pay said annuity, nor was there anything due to said Judson for his expenses on the application for the extension of said Chaffee's patent.

But the defendants respectfully submit to your honors, that whether or not said Judson has been partially or fully paid the expenses he was at in procuring the extension of said patent, is not a question that can affect the right of defendants to use the said improvements in the manufactures aforesaid, especially as they have paid all they were bound to pay for the use of said improvements, according to said agreement, and especially as said agreement is not a conditional agreement, in which, by the non-fulfilment of a part, the whole becomes void, but each party has his remedy upon the other for damages in case of non-fulfilment; and all the parties liable on said agreement are men of property, and abundantly able to pay any damages which may or might have been recovered thereon, as the defendants have been informed and believe.

And the defendants pray your honors to review and consider all the matter herein set forth relating to the right to use the improvements specified in said Chaffee's patent, the same as if the same had been more formally pleaded; and the defendants respectfully submit to your honors that upon the facts aforesaid, they are not bound to make further answer to said bill.

And if there be any other matter or thing set forth in said bill not herein and before answered, traversed or denied, the defendants say that the same is not true, and pray to be hence dismissed with their costs and expenses, to be taxed and allowed according to the practice of your honors in said Court.

UNION INDIA RUBBER COMPANY,
by their Solicitor, J. B. STAPLES.

S. P. STAPLES, and WM. C. NOYES,
of Counsel for Complainants.

S. District of New York, February 15th, 1854.

Personally appeared before me Fredk. M. Shepard, the secretary of said company, and made oath that he is, and has been for the year past, the secretary of said company, and that the facts set forth

in the above answer which he has read are true, according to his best knowledge and belief.

JOSEPH BRIDGHAM,
U. S. Com.

F. M. SHEPARD,
Secretary U. I. R. Co.

Southern District of New York, March 14, 1854.

Personally appeared before me, Daniel M. Wilson and made a solemn oath that he now is, and since January, 1853, has been, the president of the within-named Union India Rubber Company, and that he knows the contents of the within answer, and that the same is true according to his best knowledge and belief, and that the seal here annexed is the seal of the Union India Rubber Co.

D. M. WILSON,
Secretary.

JOSEPH BRIDGHAM,
U. S. Commissioner.

Indorsed: Circuit Court of U. S. U. S. Dist. of New York. The Union India Rubber Company *ads.* Horace H. Day. Answer. J. B. Staples, defendants' solicitor. Filed, February 24, 1854, Refiled, April 13, 1854.

United States Circuit Court.—Southern District of New York.—
In Equity.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER CO.

Replication.

The replication of Horace H. Day, complainant, to the answer of the Union India Rubber Company, defendant.

This repliant, saving and reserving to himself now, and at all times hereafter, all and all manner of benefit and advantage of exception, which may be had or taken to the manifold insufficiencies of the said answer, for replication thereunto says, that he will aver, maintain, and prove his bill of complaint to be true, certain, and sufficient in the law, to be answered unto, and that the said answer of the said defendant, The Union India Rubber Company, is uncertain, untrue, and insufficient, to be replied unto by this repliant, without this, that any other matter or thing whatsoever in the said answer contained in material or effectual in the law to be replied unto, and not herein and hereby well and sufficiently replied unto, confessed and avoided, traversed or denied, is true, all which matters and things this repliant is and will be ready to aver, maintain and prove, as

this honorable Court shall direct, and humbly prays, as in and by his said bill he has already prayed.

GEORGE GIFFORD,
Complainant's Solicitor.

Indorsed: U. S. Circuit Court.—Southern District of New York. —In Equity.—Horace H. Day *v.* The Union India Rubber Company.—Replication.—George Gifford, Complainant's Solicitor, 17 Wall Street.—Filed, April 8, 1854.

Circuit Court of the United States, for the Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY.
} In Equity.

Sir,—You will please take notice, that, on filing with the Clerk of this Court, at his office, in the city of New York, the interrogatories in the above entitled cause, of which the within and foregoing are copies, and with which copies you are herewith served, I intend to issue a commission or commissions to examine Thomas Anthony, Edwin M. Chaffee, Thomas A. Jenckes, Augustus O. Bourn, and George O. Bourn, all of Providence, in the State of Rhode Island; Michael M'Laughlin, of New Brunswick, in the State of New Jersey; Ebenezer B. Scott and Andrew Horn, of Roxbury, Massachusetts, Nathaniel M. Stoddart, of Woburn, Massachusetts, and George Woodman, of Boston, Massachusetts; and Frederick C. Wagner, John Murphy, James Marshall, George V. White, Nicholas W. Day, and James Waldron, all of the city and county and State of New York, named in said interrogatories, and copies interrogatories, as witnesses in the said above entitled cause, before a commission or commissioners to be named by said court, or a judge thereof, and that you are required, within ten days from the service of said copies interrogatories, and of this notice upon you, to file cross interrogatories to said witnesses in said cause, and that if you omit to file cross interrogatories within said ten days, I shall issue said commission or commissions *ex parte* under and in pursuance of the provisions of rule LXVII of said Court in Equity cases, for the examination of said witnesses in said interrogatories, and in said copies interrogatories and herein named as such commissioner or commissioners, as the said court, or a Judge thereof, shall name. Dated July 21, 1855.

Yours, &c.,
SAM'L. BLATCHFORD,
Solicitor for Complainant,
1 Hanover St., New York.

To J. B. STAPLES, Esq.,
Solicitor for Defendants,
22 William Street, N. Y.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Southern District of New York, *ss.*

James Waldron, of the city of New York, in said Southern District of New York, of full age, being duly sworn, says, that he is in the employ of Horace H. Day, the complainant of that name in the above entitled suit; that on the 23d day of July, 1855, he served on J. B. Staples, Esq., solicitor for the defendants in said cause above named, a copy of the several foregoing interrogations, entitled, in said cause, and a copy of the foregoing several papers annexed thereto, and a notice of which the above and foregoing is a copy, by delivering the said copy interrogatories, and the said copy of the said several papers annexed thereto, and the said notice of which the above and foregoing is a copy to, and leaving the same with the clerk of said Staples, at his office, Number 22 William Street, in the city of New York aforesaid, at 9¼ o'clock in the forenoon of the said 23d day of July, 1855.

J. WALDRON.

Sworn before me this 27th day of July, 1855.

R. E. STILWELL.
U. S. Com.

Circuit Court of the United States, for the Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

This Court having heretofore ordered that the complainant in this cause, be at liberty to proceed and take testimony herein, on his part, now, on motion of Mr. Seward, of counsel for said complainant, it is

Ordered, That commissions issue in this cause to take the testimony of the witnesses for the said complainant, to whom direct interrogatories have been heretofore filed, and that Samuel W. Peckham Esq., of Providence, Rhode Island, and George W. Morton, Esq., of New York, be, and they are hereby appointed, commissioners to be named in said commissions, and to take said testimony.

SAMUEL R. BETTS.

August 13, 1855.

The plaintiff's counsel then read in evidence the following commissions and depositions. The defendants' counsel read the cross-interrogatories and answers, unless otherwise noted.

[SEAL.] The President of the United States of America to Samuel W. Peckham, greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you Commissioner, and by these presents, do give you full power and authority, diligently to examine upon their corporal oaths, or affirmations, before you to be taken, and upon the interrogatories hereunto annexed, Thomas S. Anthony, Edwin M. Chaffee, Thomas A. Jenckes, Augustus O'Bourn, George O'Bourn, Michael McLaughlin, Ebenezer B. Scott, Andrew Horn, Nathaniel W. Stoddard, and George Woodman, as witnesses on the part of the complainant in a certain cause now pending undetermined in the Circuit Court of the United States of America, for the Southern District of New York, wherein Horace H. Day is complainant, and The Union India Rubber Company are defendants. And we do further empower you to examine on the same behalf, and in like manner, any other person, or persons, who may be produced as witnesses before you; and we do hereby require you, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to John W. Nelson, Clerk of the U. S. Circuit Court, New York City, as soon as may be convenient after the execution of this commission; and that you return the same, when executed, as above directed, with the title of the cause indorsed on the envelope of the commission.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at the city of New York, this seventeenth day of August, in the year of our Lord, one thousand eight hundred and fifty-five, and of our Independence the eightieth.

JOHN W. NELSON,
Clerk.

SAM'L BLATCHFORD,
Attorney.

Rhode Island District, *ss.*

In the city of Providence, on this 9th day of October, A.D., 1855, then personally appeared Samuel W. Peckham, and made oath that he would faithfully and impartially execute the within commission, according to the best of his skill and understanding, before me,

HENRY PITMAN,
Clk. of Cir. Court, U. S., R. I. Dist.

The execution of this commission appears in certain Schedules hereto annexed:

SAMUEL W. PECKHAM,
Commissioner.

Circuit Court of the United States.—Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief on the part of complainant to Thomas S. Anthony, of Providence, in the District of Rhode Island, aforesaid, a witness in said cause.

1. Will you look at that paper marked A, now shown you, and state if you witnessed it?
2. Is that your signature to it, as subscribing witness?
3. Are you acquainted with the parties who signed it?
4. Did you see them sign it?
5. Were you present when a subsequent paper was executed.
6. Did you see money paid, and by whom?
7. State what, if anything, you know of notices or a notice given Hartshorn.
8. Will you please annex a copy of paper marked A to your deposition?
9. What is your age, and business?
10. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer

SAMUEL BLATCHFORD,
Sol. for Complt.
1 Hanover St., N. Y.

Depositions of witnesses produced, sworn and examined on the 12th, 13th, 15th, 19th, 20th and 22d days of October, in the year one thousand eight hundred and fifty-five, at the city of Providence, in the District of Rhode Island, under and by virtue of a commission issued out of the Circuit Court of the United States of America, for the Southern District of New York, in a certain cause therein depending and at issue between Horace H. Day, complainant, and the Union India Rubber Company, defendants, as follows:

Thomas S. Anthony, of the city of Providence, in the Rhode Island District, attorney-at-law, aged twenty-one years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the complainant, do depose and say as follows:

Answers to interrogatories:—1st. I did witness it.
2d. It is.
3d. I am.
4th. I did.

5th. I was present when a subsequent paper, the assignment of the patent, was executed.

6th. I saw money paid when the subsequent paper was executed; Horace H. Day took some bank bills from his pocket and counted them out upon the table in Mr. Jenckes' office; Mr. Richardson then picked up the bills from the table, and counting them over, passed them to Mr. Chaffee. The amount thus passed was ten thousand five hundred dollars, in five hundred dollar bills.

7th. At the request of Mr. Chaffee, in the first day of July, 1853, I wrote out several notices in the same words, to be signed by him and sent to the various india rubber companies supposed to be using his patent; one of those notices, signed by him, and dated July 1st, 1853, and addressed to Messrs. Hartshorn & Company, Providence, I placed in the hands of George A. Billings, a deputy sheriff of the county of Providence, with instructions to make personal service of the original on Dr. Hartshorn, and retain a copy thereof with a minute thereon of the service; a copy thereof with Mr. Billings' memorandum thereon, was returned to me by him, and by me handed to T. A. Jenckes, Esq. I annex a copy of the notice to my deposition, marked by the commissioner (B).

8th. I annex a copy of the paper marked A.

9th. Twenty-eight years old, and an attorney at law.

10th. I do not recollect of anything else.

THOMAS S. ANTHONY.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of October, 1855, before

SAML. W. PECKHAM.
Commissioner.

Marked copy "A," by Samuel W. Peckham, Commissioner.

Memorandum of an agreement, had, made, and entered into, by and between Edwin M. Chaffee, of Providence, in the State of Rhode Island, of the one part, and Horace H. Day, of the city of New York, of the other part, witnesseth:

The said Chaffee, in consideration of the premises and of the agreements hereinafter contained, and in consideration of one dollar paid by the said Day to the said Chaffee, and the receipt of which the said Chaffee does hereby acknowledge, has agreed to sell and does hereby conditionally sell, transfer, assign, set over and convey to the said Horace H. Day and his executors, administrators and assigns, a certain patent right granted to him, the said Chaffee, by the Government of the United States, for grinding india rubber without a solvent, which original patent was dated August 31st, in the year 1836, and was regularly extended by the Commissioner of Patents for the term of seven years from the expiration of the original patent, hereby intending to conditionally convey to said Day

and his legal representatives, the said patent for its extended time, and all other reissues or extensions thereof, and all rights, title and interest in, to and under said patent for said extended term. The condition of which conveyance being, that the said Horace H. Day, or his legal representatives, shall, within six days from the date hereof, pay to the said Chaffee, or his legal representatives, the full sum of eleven thousand dollars in current money or current bank bills. And the said Chaffee further covenants and agrees with said Day, that upon the payment of said sum of money, he, the said Chaffee, will, and his legal representatives shall make any and all further conveyances of said extended patent to said Day which may be necessary and proper for the full conveyance of said extended patent, and will, on the payment of said money, make and execute a full and formal deed of assignment of the same to said Day and his legal representatives, such as the law requires, for the full conveyance of said extended patent; and the said Chaffee does hereby upon the same condition as above, convey and fully transfer to said Day, all and every right the said Chaffee has now growing out of said extended patent, nor hereby intending to acknowledge or render valid any contract or power of attorney made by him, the said Chaffee, to William Judson, as the said Chaffee has this day executed a notice of revocation of all powers of attorney or contracts which he has made to said William Judson, as both the said Chaffee and the said Day claim and believe that said Judson, by default on his part, has waived and surrendered all rights, if any, that he might have had under any and all contracts made with the said Chaffee. And the said Chaffee further covenants and, conditionally as aforesaid, agrees, that on the payment of said sum of money, he will execute a full and final release to said Day, and all other parties he shall name, for, and on account of any infringement heretofore of said extended patent. And the said Day for himself and his legal representatives, agrees that unless he, the said Day, shall pay the sum of eleven thousand dollars within named, within the time named, he will forfeit to the said Chaffee the sum of five hundred dollars, to be paid by him to the said Chaffee in current money, as a part consideration of this agreement, and as liquidated damages, and this agreement shall become void and of no effect.

It is further understood between the parties, that this conveyance is to transfer to said Day all rights and privileges that may have grown out of said extended patent; and should it turn out in any future litigation that there is due to said Chaffee any sum or sums of money on account of said patent, the same is hereby conditionally as aforesaid, transferred to said Day and his representatives and assigns, and the said Chaffee is to render to said Day all proper aid in the establishing of his rights under said patent.

In testimony whereof the parties hereto have hereunto interchanged and set their hands and seals this first day of July, 1853.

EDWIN M. CHAFFEE, [L.S.]
HORACE H. DAY, [L.S.]

In presence of
THOMAS S. ANTHONY,
T. A. JENCKES.

Received and recorded July 6th, 1853.

Received of Horace H. Day five hundred dollars, to be applied upon this contract, as follows, viz.: If the said Day shall pay the sum of eleven thousand dollars within the time named, this shall be received as so much thereof, if not, then it shall be retained as the forfeiture.

EDWIN M. CHAFFEE,
THOMAS S. ANTHONY.

SAMUEL W. PECKHAM,
Commissioner.

Copy of paper "A," referred to in the first interrogatory in chief.

SAML. BLATCHFORD,
Solicitor for Complainant,
1 Hanover St., N. Y.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and shown to Thomas S. Anthony, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

Copy marked (B), by Samuel W. Peckham, Commissioner.

PROVIDENCE, R. I., July 1st, 1853.

To Messrs. Hartshorn & Co., Providence:

You are notified that William Judson has no authority to act as my attorney, or to give any licenses for the use of my patent for improvements in the manufacture india rubber, originally dated August 31, 1836, and extended August 31, 1850, for a further term of seven years, and that I recognize no acts of his as binding on me, and that I am under no obligation to ratify anything that he has done in my name.

Signed yours,
EDWIN M. CHAFFEE,
THOMAS S. ANTHONY.

SAMUEL W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and shown to Thomas S. Anthony, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

Circuit Court of the United States.—Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER CO. } In Equity.

Interrogatories in chief on the part of the complainant, to Thomas A. Jenckes, of Providence, in the District of Rhode Island, aforesaid, a witness in said cause.

1. Look at paper now shown you, marked original B, by commissioner, and upon copy of same marked copy B, by commissioner, and state whether the copy B is a true copy, and whether you was present at the execution of the original and witnessed the same, and the circumstances attending the execution, and annex the copy to your deposition, if a true copy.

2. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, N. Y.

Thomas A. Jenckes, of the city of Providence, in the Rhode Island District, Attorney at Law, aged twenty-one years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the complainant, doth depose and say as follows:

Answers to interrogatories.—1st. The paper referred to in the interrogatory, now shown to me by the commissioner, was executed by Edwin M. Chaffee, in my presence, and I signed my name thereto as a witness, at the time the said Chaffee executed the same. I saw said Chaffee sign his name opposite to the seal on said paper, and my signature thereto as a witness is genuine. It was signed by said Chaffee, and witnessed by me in my office, in Providence, and at the time of the execution thereof, and the delivery of the same by said Chaffee to said Horace H. Day; the said Day paid to said Chaffee, in my presence, the sum of one thousand and five hundred dollars. The copy annexed to the interrogatory is a true copy of said instrument, with the exception of some typographical errors which I have corrected. I have signed my name to the copy annexed.

2d. That he knoweth not.

T. A. JENCKES.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of October, 1855, before me,

SAMUEL W. PECKHAM,
Commissioner.

Marked copy B, by Samuel W. Peckham, Commissioner.

Whereas I, Edwin M. Chaffee, of Providence, in the State of Rhode Island, have discovered and invented certain new and useful improvements in grinding and working India rubber without a solvent, and in the machinery for accomplishing the same, for which letters patent were granted by the United States, dated the 31st day of August, A. D. 1836, to me, the said Chaffee, and which letters patent have been duly and regularly extended to me by the Commissioner, of the United States, for the term of seven years from the expiration of the original patent:

And whereas, Horace H. Day, of the city and State of New York, is desirous of acquiring said invention and letters patent, and all right and interest in and to the same, for and during the term for which said letters patent were extended, and for and during any additional term for which the same may be extended or reissued; and all my right, title or interest, in or to any and all damages, which have been committed by any infringement of said letters patent, by any person or persons, and for which a right of action or suit has or shall accrue to me; and all my right, title and interest, in and to any and all contracts, agreements and licenses which have been made with any person or persons, in relation to said patent or invention, or the right to make, use or vend the same, and all power which I possess or have in relation thereto—not hereby intending to acknowledge the validity of any contract made with or by William Judson, as my attorney.

Now these Presents Witnesseth, That for and in consideration of the sum of eleven thousand dollars, lawful money of the United States, to me in hand paid by the said Horace H. Day, the receipt of which I do hereby acknowledge, I have assigned, sold and set over, and do hereby assign, sell and set over unto the said Horace H. Day and his executors, administrators and assigns, said invention, and every part thereof, and the said letters patent for the whole of the term of seven years for which said letters patent were extended, or for the term for which the same shall hereafter be extended as aforesaid, or reissued, in and for the whole of the United States and Territories, and all my right, title and interest in and to the same and every part thereof; also all of my right, title, and interest and power, in, to, and over any and all damages or claim for, or rights to damages, against any and all persons whatsoever, for or

by virtue of or arising from any and all infringements of said letters patent, or for which a right of action or suit has or shall accrue to me; also all my right, title, and interest in, and power over, any and all contracts, agreements, and licenses, if any, which has or have been made with any person or persons, in relation to said letters patent or invention, or to the right to make, use, and vend said invention, together with all the benefit, profit, and advantage which would have accrued to me therefrom, or by virtue thereof, had this assignment and transfer not have been made. The same to be held and enjoyed by the said Horace H. Day, his executors, administrators, and assigns, for his and their own use and behoof, forever, as fully and entirely as the same would or could have been held and enjoyed by me, had this transfer and sale not been made. And for the purpose of the better securing unto the said Horace H. Day the aforesaid rights, powers, interests, and advantages, I do hereby irrevocably nominate and appoint said Day my true and lawful attorney in my name, place, and stead, and for his own use and benefit, and for the use and behoof of his legal representatives, to sue for and collect and recover, all damages to which I am entitled, and for which I have any legal claim, or to which a right of action has accrued to me for, by virtue of, or on account of any and all infringements of said letters patent, and to compromise and settle for the same, as and on such terms as he shall see fit, and in my name to execute and deliver releases and requittances therefor, with or without seal; and in all respects to exercise as full power and control and authority over the same as I could do, if personally present, and this assignment had not been made. And also in my name, place, and stead, and for his own use and that of his legal representatives, but at his own expense, to enforce and compel by actions, suits, or otherwise, the performance and fulfilment of all contracts, and licenses, and to revoke or compel the exercise of all powers which have been made, entered into, given or granted, in relation to said invention or letters patent, or the right to make, use, and sell said invention, as fully and completely, to all intents and purposes, as I could do it if personally present.

Witness my hand and seal, at Providence, in the State of Rhode Island, the first day of July, A.D. 1853.

EDWIN M. CHAFFEE. [SEAL.]

In presence of
T. A. JENCKES,
N. RICHARDSON.

Copy of paper "B," referred to in the first interrogatory in chief.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street.

At the execution of a commission for the examination of witnesses

between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and shown to Thomas A. Jenckes, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

Circuit Court of the United States. Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief, on the part of complainant, to Nathaniel W. Stoddard, of Woburn, in the district of Massachusetts aforesaid, as witness in said cause.

1. Where do you reside?
2. Have you ever been connected with the india rubber business?
3. When were you first engaged in that business, and where, and in what factory?
4. How long were you employed there?
5. In what capacity were you employed?
6. How long were you engaged in that business, after you left that factory, if at all, and when and where?
7. Did you have anything to do with getting up factories, and where?
8. Were you acquainted with the various processes in the manufacture of india rubber in 1834 and 1835?
9. Have you any doubt but what you were fully acquainted with it?
10. Will you describe the process that was used in the Roxbury and other factories for preparing the rubber?
11. Do you speak of the Roxbury or all the factories?
12. What quantities of solvents were used in proportion to a given weight of rubber?
13. In what state was the rubber used when put into the solvent?
14. Had it undergone any purification before dissolving?
15. What sized pieces?
16. Was it washed before dissolving?
17. When was it weighed—before, or after it was washed?
18. Go on and describe the process after it was put into the solvent.
19. How was it spread upon the cloth and made into articles?
20. How was it done? state particularly.
21. Could you give a description of that paint-mill?

22. Was it necessary, or not, to expel the solvent from the fabric, when completed?

23. Why was it necessary to do it, if it was?

24. Are you acquainted with the process of preparing india rubber patented by Chaffee?

25. Do you know whether or not this effected any saving over the processes you have described?

26. State from your knowledge, how much that saving was, if any.

27. What was solvent worth for every pound of rubber?

28. What did it cost to dissolve every pound of rubber?

29. Were there any other elements of saving?

30. How was it with the quality of the goods; did they, or not, decompose?

31. Whether goods under new process decompose?

32. What was the cause of the rotting in that process, if they did?

33. Can you state any sum per pound of saving between the new process and the old?

34. Do you know what the solvents are worth at the present time?

35. Are you now engaged in the manufacture of india rubber?

36. What is your business now?

37. Do you use india rubber in that manufacture?

38. State whether or not the same saving would be effected now in the manufacture of india rubber shoes, such as they now make, as there was in 1836, and if any difference, what is it.

39. Whether Chaffee's process reduces the cost of the manufacture, and how, and how much?

40. Suppose the Chaffee process is not used, would the cost of the manufacture of rubber materially differ now from what it was in 1836?

41. Leaving out the Chaffee patent, and supposing they used a solvent, as they did then, how would it be?

42. Do you know whether or not the goods now manufactured could be made by the use of a solvent, and be a merchantable article.

43. Could the article of shoes, as now manufactured, be made as a merchantable article by using solvent?

44. Do you know any other mode in which they could be made a merchantable article, except by the Chaffee process?

45. Have you, at any time within a year, been in defendant's factory, and under what circumstances?

46. Have you read Chaffee's specifications, and seen the drawings?

47. Where do you reside now?

48. Where did you commence the rubber business?

49. Did you do anything at it before 1834?

50. Were you ever at the South Boston factory?
51. When were you there?
52. Who was carrying on business there then?
53. What composition did they use at Roxbury in 1834?
54. Did you, at that time, have a secret recipe for compounding rubber?
55. Did you know what Dexter used at South Boston in 1835?
56. Did you see his gum in course of preparation?
57. Was it dissolved by turpentine?
58. How much turpentine will it take to dissolve a pound of rubber as you saw it in 1835, at South Boston?
59. Were these recipes for dissolving rubber sold for any valuable consideration about that time to your knowledge?
60. How was it about these recipes; do you know of any being sold?
61. How did you get into the South Boston factory?
62. How did the goods, made at the Roxbury factory, in 1834, turn out?
63. How were they when the Chaffee machines came into use?
64. Were you acquainted with the goods?
65. When did you first hear of the Chaffee improvements at Roxbury?
66. Did you make any effort to find out what it was?
67. What effort did you make?
68. Did you see them?
69. Was it an india rubber manufacturer that you went with, if any?
70. When was it you went, if you went to a foundry, where, and what for?
71. When did you first see the monster machine?
72. Did you leave the rubber business about that time, and when?
73. Had you left the business before you went to make this examination?
74. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.
1 Hanover St., N. Y.

Nathaniel W. Stoddard, of North Bridgewater, in the District of Massachusetts, patent leather manufacturer, aged forty-nine years and upwards, being duly and publicly sworn pursuant to the directions hereto annexed, and examined on the part of the complainant, doth depose and say as follows:

Answers to Interrogatories.—1st. In North Bridgewater, Massachusetts; I formerly resided in Woburn, Massachusetts.

2d. I have.

3d. In the winter of 1833 and 1834, at the Roxbury India Rubber factory, in Roxbury, Massachusetts.

4th. I left in the spring of 1835.

5th. As foreman of the shoe department.

6th. In the spring of 1835, I was engaged a short time at the Pitt street factory in Boston; in the summer and fall at Lynn, with the Lynn Printing Company, and in North Bridgewater until the fall of 1836; I have some difficulty in recollecting dates.

7th. I did; I assisted in getting up the Pitt street factory in Boston, and for the Lynn Printing Company in Lynn, and also the one in North Bridgewater.

8th. I think I was.

9th. There might have been some establishments that I knew nothing of; I have no doubt so far as the india rubber factories were concerned in Massachusetts; I have no doubt I was fully acquainted with the processes.

10th. It was partially dissolved by spirits of turpentine, and ground in a mill; that was the process of making the compound.

11th. All the factories.

12th. About one gallon to the pound.

13th. It was cut up into small pieces.

14th. It had been washed in water.

15th. From one to three inches long and wide; from an eighth of an inch to a quarter thick.

16th. It was.

17th. After.

18th. The rubber was placed in tin cans; these would contain about one barrel each of the liquid; the spirits of turpentine was poured upon it until it was covered, and remained until it became pulpy; it was then put into a mill and ground: that is the process after it was put into the solvent.

19th. By means of rollers.

20th. It was coated in a machine called the towel machine; the cloth being made into an endless web, or the ends sewed together—one end placed upon a wooden drum, the other end upon a wooden roller; a hopper placed against the wooden roller, a knife or doctor being attached to the bottom of the hopper. The drum was moved by a crank, which caused the cloth to revolve; there being an outlet at the bottom of the hopper, the compound would settle upon the cloth; by giving it motion it would coat it.

21st. I don't know what mill is alluded to.

22d. It was.

23d. If it remained in the goods it would cause the composition to decompose, and be very sticky.

24th. I am.
25th. It did.
26th. From fifty to seventy-five per cent.
27th. From sixty to eighty cents.
28th. From sixty to eighty cents.
29th. There must have been quite an amount of labor saved.
30th. Not to my knowledge; the others had solvent in it and would decompose; Chaffee's had no solvent and would not decompose, so far as I knew.
31st. I refer to my last answer.
32d. It was the remains of solvent in the goods.
33d. From fifty to seventy-five per cent.
34th. From fifty to sixty cents per gallon.
35th. I am not.
36th. A manufacturer of patent leather.
37th. I do.
38th. Goods such as they now manufacture could not be manufactured in 1836; they are now vulcanized—they were not in 1836.
39th. It must reduce the cost from sixty to seventy-five per cent., by dispensing with solvent, and a saving of labor.
40th. The cost of materials being the same, it would not.
41st. About the same.
42d. They could not.
43d. They could not.
44th. I do not.
45th. I have not.
46th. I have.
47th. In North Bridgewater.
48th. At Roxbury.
49th. I did not.
50th. I was.
51st. In the spring of 1835.
52d. I was not acquainted with the individuals that carried it on; I do not know their names.
53d. A composition made with solvents.
54th. I did.
55th. I did.
56th. I did.
57th. It was.
58th. About one gallon to the pound.
59th. They were.
60th. I sold one myself to Messrs. Stone and Lovell, of the Pitt Street factory.
61st. By being acquainted with Mr. George B. Dexter, who manufactured their composition.
62d. Very bad.
63d. Good, so far as I know.

64th. I was.
65th. In the summer of 1836.
66th. I did.
67th. I went to the foundry in Bridgewater to see the castings.
68th. I did not.
69th. It was.
70th. In the summer of 1836, to endeavor to ascertain what Mr. Chaffee was getting up at the foundry in Bridgewater.
71st. I have never seen the monster machine.
72d. I left it in the fall of 1836.
73d. I had not.
74th. I know of nothing else of importance.

N. W. STODDARD.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 20th day of October, 1855, before

SAM'L. W. PECKHAM.
Commissioner.

The plaintiff's counsel then offered in evidence a certified copy from the United States patent office, of the deposition of Ebenezer B. Scott, there remaining on file, to the reading of which in evidence the counsel for the defendants objected, and the court excluded the same; to which decision excluding the same the counsel for the said plaintiff, then and there excepted, which said certified copy, was in the words and figures following, to wit:

The United States Patent Office. To all persons to whom these presents shall come, greeting:

This is to certify, that the annexed is a true copy from the files of this office, of a paper filed in the matter of the application of Edwin M. Chaffee, for an extension of letters patent issued to the said Edwin M. Chaffee, on the thirty-first day of August, eighteen hundred and thirty-six.

In testimony whereof, I, S. T. Shugert, acting commissioner of patents, have caused the seal of the patent office to be hereunto affixed this nineteenth day of September, in the year of our Lord one thousand eight hundred and fifty-five, and of the Independence of the United States, the eightieth.

[SEAL.]

S. T. SHUGERT.

In the matter of the application of Edwin M. Chaffee, for extension of patent, dated, 31st August, 1836, granted to him.

Rec'd 19th August, afternoon.

E. B. SCOTT.

Commonwealth of Massachusetts, Suffolk County, *ss.*

Ebenezer B. Scott, boss plumber, being duly sworn, deposes and says, that he resides in Roxbury, and has resided there since his boyhood, and that he is 48 years of age and upwards; that he first became connected with the Roxbury India Rubber Factory in the year 1835, and month of May. At this time, Mr. Chaffee was experimenting on his invention or improvement for dispensing with solvents in the manufacture of india rubber, and had a secret room for that purpose in the factory, and the result of said Chaffee's experiments was the construction of the monster machine, so called. Deponent has no doubt that said Chaffee was the first and original inventor of the principle and process of preparing and reducing india rubber to a plastic state without solvents, by grinding and pressure through rollers heated, and so as to avoid the use of spirits of turpentine and other solvents. That the saving in solvents effected by said machine was enormous, and the invention was in value worth very much more than what he understood said Chaffee was to receive from said company for said invention. That the spirits of turpentine used, averaged for the year or two years immediately previous to the invention, about eight barrels per day. That deponent knows that this company esteemed it of very great value and importance, and deponent knows that in consequence of said invention or improvement, the stock rose in value, and doubled in value, and so that, at one time none of the stock of said company could be bought. That the said Chaffee was greatly disappointed in not receiving what he had expected to receive, and what the said company had agreed to give him for his said invention; and said Chaffee told me, at the time, that he was at the mercy of the company, and should be obliged to take whatever they were willing to give him. That said Chaffee complained to me at the time that the company had withheld his salary, and the payments that they had agreed to make him, and so that he had to borrow money of deponent, and by reason of the failure of the company, said Chaffee was obliged to sell his house in Roxbury, and move out of the place. Deponent further saith, that said Chaffee was a very honest and industrious man, and an excellent mechanic, and possessed great scientific knowledge, and was a very superior mathematician. No man stood higher than said Chaffee for integrity and high moral character. Deponent excepts no man that he ever knew. Deponent knows that the Roxbury India Rubber Company buried a large quantity of their goods, which had been made before the said invention of said Chaffee, to the amount as deponent believes of twenty or thirty thousand dollars—large quantities of the goods, many thousands of dollars worth, were burnt under the boilers to run the engine to drive the monster, so called.

From all that deponent has learned, he does not believe that said

Chaffee ever received anything like an adequate or sufficient remuneration for his said invention; and said Roxbury company derived great advantage from the same, and the public has been greatly benefited by said invention or improvement, and deponent believes that a *half a million of dollars* would be a low estimate for the value of that machine, and the benefit of it to the public. Deponent was acquainted with the method or process of manufacture at Lynn, Massachusetts, by Nichols & Co., and deponent knows that they used solvents in the manufacture of india rubber goods, and never manufactured any goods without solvents. Deponent took away the spreading machine from the factory of said Nichols & Co., and put the same up in the factory of Charles Jackson, at Providence, and took to Providence also a rubber grinder, which was made and used for the purpose of masticating, grinding, and tearing the rubber, and getting out the dirt, and was used in the water generally. It was good for nothing without the water. This machine was intended and used for the purpose of cleaning the rubber, and for the purpose of bringing the rubber into as fine small particles as possible, and so that the turpentine would act upon it with more effect and more rapidly than when in larger pieces. I saw this same machine, about three months ago, in Roxbury. It was not possible to bring rubber into a plastic state by that machine.

When deponent was told of this invention or improvement by said Chaffee, and that he could bring the rubber into a plastic state without solvents, he was greatly astonished, and could not imagine how it was done. That deponent believes and has no doubt that said discovery and improvement cost said Chaffee much thought, study, and reflection, and was the result of many persevering efforts and experiments, and was not the result of accident, nor does deponent think or believe that this discovery was a natural or obvious, but on the contrary was a very skilful and ingenious device or expedient, and elicited general surprise and admiration from all who saw it. Mr. Charles Goodyear came to the Roxbury factory to try experiments on the monster machine in the year 1837, latter part as I believe. Deponent was at work there at the time said Goodyear tried experiments in mixing colors, white lead, &c., and applying the acid solutions of metals, cold and hot. Deponent further saith, that the conception or idea that coloring ingredients and dyeing materials could be thoroughly incorporated with india rubber, practically and successfully, or as well as with solvents, was an original idea, and could only be ascertained, as deponent believes, by experiments, and was a valuable improvement.

The new coating or spreading machine, for dispensing with solvents, produced by the Boston Belting Company, has a clutch like the monster machine, to make the top roll move slower than the others, and this is considered, as deponent believes, the most approved mode for general work, and better than when all the rolls move with equal speed or velocity.

The monster machine was kept a secret, and all the operatives put under bonds not to disclose the secret, or any of the secrets, of the factory. About the year 1836, two men came from New York to deponent and wished to know whether my name was Scott, they having made inquiries for the name or names of persons in the factory who could put up a machine like the monster, as they stated, and that my name had been given to them; they offered deponent, if he would go to New York and show them the process adopted by the Roxbury Company in the manufacture of india rubber, and fit up all necessary apparatus and machinery, and take charge of the same, to give deponent a bonus of one thousand dollars, and a thousand dollars per year salary for five years, and pay deponent's bond to the Roxbury Company for ten thousand, if the same should ever be exacted.

The annexed is the original bond given by said deponent to said Roxbury Company above referred to.

EBENEZER B. SCOTT.

The above testimony in chief is taken subject to all legal objections that may properly be taken to it.

Cross-examination by Holbert Smales, Esq., counsel for Henry Newell.

1. What was your business previous to being connected with the company in 1835?

Answer. Carpenter and turner. I had not been connected with the india rubber business before that, except so far as making such patterns as Chaffee brought me, and other work for the factory.

2. Were you personally acquainted with any other india rubber factories at that time?

Ans. I was not, nor with the mode of working in this or other factories at that time.

3. Why had you no doubt Chaffee was the original inventor of the principle or process described by you?

Ans. In 1835, I went to the factory as an operative, and worked at the mill, and knew their former process by spirits of turpentine. I had no doubt that he was the inventor, because he had a room fitted up for making experiments to get rid of the use of solvents. I did not see the experiments. The results of his experiments, he used to show me from time to time. He showed me small samples of cloth about a foot square, perhaps, with india rubber put on without solvents. He said they were produced without solvents, and there was no smell of the solvents as usual.

4. Do you know of your knowledge whether or not india rubber, before that time, had been reduced to a plastic state without the use of solvents by any person?

Ans. I do not.

5. What was the market value of the stock of the company in 1834 and '35?

Ans. I knew but little about it before I was there, in 1835; after I was there, I used to hear them say that the stock was from $110 to $130 per share. I heard this from hands about the factory, some of whom were in the habit of buying it.

6. Do you know anything about the dividend declared on it previous to the rise you have mentioned?

Ans. I do not.

7. How do you know what Mr. Chaffee had expected to receive from the company?

Ans. From what he told me at different times.

8. Did you ever see any written agreement entered into between him and the company?

Ans. I never did; I understood there was one, but I never saw it.

9. What do you know about the company's withholding his salary?

Ans. I knew he was short of money, and he said he could not get his pay of the company; and he used to borrow of the hands. I only know of the withholding of his salary from what he told me.

10. Was your salary ever withheld?

Ans. No; nor any other of the hands being withheld, except Mr. Chaffee's, as above stated.

11. Do you know that Mr. Chaffee was considerably in debt at the time you went with the company?

Ans. I presume he was; he was always understood to be a poor man.

12. Did he sell his house previous to his leaving the factory or afterwards?

Ans. I am not sure, sir; I can't tell the year he left, nor the year he sold his house; up to the time he left the employment of the company, he lived in his house.

13. After he left the employment of the company, did he not move his family from Roxbury?

Ans. I believe he did; his house was sold, and he moved his family, where, I cannot say.

14. When were the goods destroyed that you have mentioned?

Ans. I should think about 1836.

15. How long had the company then been manufacturing, and to what extent?

Ans. They had been manufacturing then, perhaps, two years, and carried on a large business.

16. How long did you continue in the india rubber trade?

Ans. About three years, and have not since, except that I went to Providence, and set up machinery for Mr. Jackson, and after that occasionally worked in the factory (Roxbury) nearly up to the time of the sale.

17. How do you make out that a half a million of dollars would be a low estimate for the value of the machine, and the benefit to the public?

Ans. It is in the saving of the spirits as a solvent, which was said at the time to be about $30,000 to the company per year. It was said they used to use from 20 to 30 bbls. of spirits per day, and the smell from the use of solvents was a great objection to the goods. I do not know from my own knowledge what the saving was.

18. How often were you in the manufactory of Chas. Jackson, at Providence?

Ans. I was there, I believe, about eleven months after Chas. Goodyear came there, working on the shoe business; certain machinery was bought at Lynn, and removed to Providence, and I was there that time putting it up; at first the india rubber sheets for shoes were prepared from the monster machine without a solvent, but afterwards when we came to use Nichols' machine we used a solvent, though much less than formerly.

19. How often were you in Nichols' factory?

Ans. Never there but once; it was after they had stopped working, when I went to take the machinery to Jackson's.

20. Did you ever see that machine tried for bringing india rubber into a plastic state without solvent?

Ans. I have tried it myself after I set it up at Providence; I run it.

21. What trial did you make of it?

Ans. Tried to work the gum without a solvent and could not; we tried it perhaps a half dozen different times.

22. Did you ever give any other bond to the company except the one produced at your examination?

Ans. I think not.

23. Who were the men that came from New York in 1836, to request you to put up a machine similar to the monster?

Ans. I do not know who they were.

24. What was Mr. Chaffee's occupation before he went into the employment of the company?

Ans. Worked in the Japan leather business for Mr. Haskins, in Roxbury; he was an operative there.

25. Was he at any time before 1836, a machinist by profession?

Ans. He was a mechanic, but whether a machinist I cannot say; I believe he was a carver originally; it was so said; he was naturally ingenious.

26. How do you know that he was a superior mathematician?

Ans. Merely from report. It was said so, and so as to his scientific knowledge.

27. Did you hear of his constructing any machinery of importance before the monster.

Ans. I did not, sir.

28. Did not you and Mr. Sawyer assist in the construction of the monster?

Ans. In setting it up after it was constructed. It was built at Alger's, South Boston, I believe.

29. Had you anything to do with its construction, or the models for it, before it was set up?

Ans. No, not until after it was set up. Mr. Sawyer and myself made the model for it.

30. What is Mr. Sawyer?

Ans. He is a machinist.

31. By whom were you and Mr. Sawyer paid?

Ans. By the Roxbury India Rubber Co. The model was made in the factory.

32. What business do you now carry on, and where?

Ans. Plumbing business, in Roxbury.

33. What was you first employed in at the Roxbury factory?

Ans. Repairing machinery and setting up machinery then in use, making alterations, and anything else that I was called upon to do.

34. Did the machinery then in use in the factory include machines for coating cloth with india rubber?

Ans. Yes.

E. B. SCOTT.

In the matter of the application of Edwin M. Chaffee for the extension of his patent, dated Aug. 31st, 1836, Ebenezer B. Scott, of Roxbury, in the County of Norfolk, and Commonwealth of Massachusetts, having been duly sworn in the above case, deposed and said as contained in the deposition in chief hereto annexed, and signed by him, and thereafter being again duly cautioned and sworn, was duly cross-examined by the opposing party, as appears above, and the same was duly recorded in his presence and hearing, and he signed it.

FALE SAWYER,
Justice of the Peace.

The counsel for the said complainant also read in evidence the following commissions and depositions. The counsel for the said defendants also read the cross-interrogatories and answers to the same, unless otherwise noted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER CO. } In Equity.

Interrogatories in chief on the part of complainant to George O.

Bourn, of Providence, in the District of Rhode Island aforesaid, a witness in said cause.

1. Do you reside in Providence?
2. How long have you resided there?
3. How long have you been in the india rubber business?
4. Where did you commence—what part of the city?
5. Who was with you?
6. When you commenced the india rubber manufacture, what machinery did you use; or did you or not use solvent?
7. When did you cease the use of solvents, if at any time?
8. What kind of shoes did you make?
9. When you commenced the heating process, did you use solvents, or dispense with them?
10. Are you manufacturing now, and how long have you been?
11. Do you make now what is called the vulcanized shoe?
12. Do you use any solvents now?
13. Do you use coal-tar?
14. How much to a batch of rubber?
15. How much coal-tar do you put to a batch?
16. What is that used for?
17. Do you know of other people who use coal-tar in the business?
18. What is blooming?
19. How does it affect the color of the rubber?
20. Is there anything to be seen, either sulphur or lead, on the outside of the rubber, after it is finished, without coal-tar, or some substitute for it?
21. Do you know what that arises from?
22. When do you put coal-tar in—after you have ground the rubber or before?
23. You mix it with the compound afterwards?
24. Did you ever know coal-tar used in the manufacture of rubber shoes as a solvent?
25. Would a pint, if applied to the rubber at the time of grinding it on the heated roller, operate as a solvent at all?
26. Do you use friction rollers in grinding the rubber?
27. Have you ever seen the monster machine?
28. How large are the rollers for grinding in your factory?
29. In running these rollers heated by steam can you grind rubber without having any cold water cooling apparatus?
30. Do you ever find with that size roller any difficulty in grinding without the cooling part?
31. What is the convenience, if any, of having an apparatus for letting in cold water?
32. If the rollers were as large as in the Chaffee monster machine, what would be the effect—would they on any occasion heat too much?
33. Would they heat too much by friction—go above two hundred degrees, so that you could not control them?

34. Are the grinding rollers now in use smaller than those in the original Chaffee machine?

35. By proper care and attention to your machinery, can you keep them at work by letting the steam off, and keeping them down to two hundred degrees, without any water?

36. Could you or not keep the temperature of the rollers down without cold water?

37. With the same speed, what would be the effect upon a large and small roller?

38. Would the large roller heat as quick as the small?

39. Are vulcanized shoes made with solvents good or bad?

40. Can the present article of what they call vulcanized rubber shoes be made with solvents?

41. Do you know of any place in the United States where they are made with solvents?

42. When did the new process of vulcanizing shoes come into vogue?

43. Are there any goods that are as good made with solvents as made by the Chaffee process without solvents?

44. How is it as to the expense of manufacturing between the solvents and the Chaffee process—does the Chaffee process save any amount?

45. Is the Chaffee process a saving in anything over the solvent process?

46. Do you know any other material matter or thing not above stated, connected with this patent and the validity thereof?—if so, state it.

47. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause?—if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Sol'r for Compl't,
1 Hanover St., N. Y.

George O. Bourn, of the city of Providence, in the Rhode Island District, manufacturer of india rubber goods, aged forty-five years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the complainant, doth depose and say as follows:

Answers to Interrogatories.—1st. Yes.

2d. About thirty years.

3d. Ever since 1840, or the spring of 1841.

4th. In Greene Street, in the city of Providence.

5th. David L. Winslow.

6th. I used machinery similar to the machinery used now, only

the rolls were of smaller diameter, what is called the camphine machinery; or we did use camphine with them at any rate; we did use solvents.

7th. It was sometime in the year 1847 or '8, that we pretty much ceased using them, though not entirely. I think in 1849, we ceased entirely. It was about that time.

8th. We made what was known in the market, as the Providence shoe, or acid tanned shoe, or acid cured shoe.

9th. We dispensed with them.

10th. I have manufactured ever since the spring of 1841; I did not do much at manufacturing in 1843 or '4.

11th. We make a heated shoe; it is called the vulcanized shoe.

12th. We do not—not in our regular work.

13th. We do.

14th. As a general thing we use half a gill to a gill, to a batch of rubber. We have used more at times for experiments.

15th. We boil down coal tar till it becomes about as hard as rosin, then we add to each batch before named, in addition to the half a gill or gill of raw coal tar, about two pounds of the boiled coal tar.

16th. It is used to keep the rubber firm, as the rubber people term it blooming, or in other words, gives the rubber a black, smooth surface. The tar has a chemical action on the rubber which I do not understand, but that is the result. We were tempted to use other things in the place of coal tar, and found it failed. We have used oil, rosin, and other things.

17th. I do not, except at other factories that we are connected with.

18th. Blooming is, as we understand the term, leaves little pits on the surface of the rubber, a little roughness on a sheet of rubber.

19th. If you mean coal tar, it has an inclination to turn it black.

20th. Yes.

21st. Some chemical action which the coal tar has on the rubber prevents it, which I do not understand. The sulphur or lead on the outside of the rubber is caused by heat.

22d. After we grind the rubber.

23d. Yes.

24th. No.

25th. No.

26th. We do.

27th. I saw it once, a great many years ago.

28th. I think they are about thirteen inches in diameter. In one very small machine which we used occasionally, they are nine inches.

29th. Yes.

30th. No.

31st. Carelessness of the workmen, in letting the steam stay in

too long. The cold water cools them down quicker to a right temperature.

32d. No: we could not use them without steam, or some heating apparatus.

33d. If the rolls did not move faster than our rolls move now, they would not heat by friction. I do not know how fast their rolls did move.

34th. They are, I think, something smaller, not much. The calender part is the same size, I believe, at any rate one calender is eighteen inches.

35th. Yes.

36th. I could.

37th. The smaller the roller is, with the same speed, the quicker it would heat, the friction would be greater, and the more friction there is the quicker it would heat.

38th. I should think not.

39th. Well, I consider them good for nothing, dangerous to be made, as they would decompose very shortly afterwards, and kill any establishment that attempted to do it.

40th. I suppose they can be made; I never made any.

41st. No; there is none.

42d. They begun to grow better as soon as they left off using camphene, and that was in the year 1848, and they were improved very much from that time up to 1851 by the use of coal tar.

43d. I don't know of any.

44th. It saves a large amount.

45th. Yes; they save all their goods, all they manufacture. The goods are worth nothing with solvents.

46th. I can't think of anything at present.

47th. I can't think of anything at present.

GEORGE O. BOURN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 19th day of October, 1855, before

SAM'L W. PECKHAM,
Commissioner.

The President of the United States of America,

To George W. Morton of New York City,

[SEAL.] Greeting:

Know ye, that we, in confidence of your prudence and fidelity, have appointed you a Commissioner, and by these presents, do give you full power and authority, diligently to examine upon their corporal oaths, or affirmations, before you to be taken, and upon the interrogatories hereunto annexed, E. L. Simpson, Frederick C. Wagner, John Murphy, James Marshall, George B. White, Nicholas W. Day, and James Waldron, as witnesses on the part of the complainant, in a certain cause now pending undetermined in the Cir-

cuit Court of the United States of America, for the Southern District of New York, wherein Horace H. Day is complainant, and the Union India Rubber Company are defendants. And we do further empower you to examine on the same behalf, and in like manner, any other person or persons who may be produced as witnesses before you; and we do hereby require you, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to John W. Nelson, Clerk of the United States Circuit Court, New York city, as soon as may be convenient after the execution of this commission; and that you return the same, when executed, as above directed, with the title of the cause indorsed on the envelope of the commission.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at the city of New York, this seventeenth day of August, in the year of our Lord one thousand eight hundred and fifty-five, and of our Independence the eightieth.

SAM'L BLATCHFORD,
Attorney.

JOHN W. NELSON,
Clerk.

The execution of the within commission appears by certain paper writings and exhibits hereto annexed.

GEORGE W. MORTON,
Commissioner.

Instructions to Commissioners.

Annexed to the commission is an extract from the Statutes of the State of New York, relative to the taking of testimony out of the State, which extract is directed by law to be annexed to the commission. But as it does not comprise everything necessary to be attended to by the commissioners, they are requested to observe the following more ample instructions:

I. All the commissioners named in the commission should have notice of the time and place of executing it; and if any of them do not act, let the fact that they were notified, or could not be notified, and the reasons for their not acting, be stated.

II. The commission must be executed by the commissioner named therein.

III. The acting commissioner will examine the witnesses separately, after publicly administering to them the following oath or affirmation:

"You do swear, that the answers which shall be given by you to the interrogatories proposed to you, shall be the truth, the whole truth, and nothing but the truth. So help you God."

The oath shall be administered (except in cases hereinafter mentioned) by the witness laying his hand upon and kissing the Gospels.

But if the witness shall desire it, he shall be permitted to swear

in the following form: "You do swear, in the presence of the everliving God," and while so swearing, he may or may not hold up his hand, in his discretion.

Or if the witness shall declare that he has conscientious scruples against taking an oath, or swearing in any form, he shall be permitted to make his affirmation in the following form: "You do solemnly, sincerely, and truly declare and affirm," omitting the words, "So help you God."

IV. The general style or title of the depositions must be drawn up in the following manner:

"Depositions of witnesses, produced, sworn (or affirmed) and examined, the day of , in the year one thousand eight hundred and , at under and by virtue of a commission issued out of the in a certain cause therein depending and at issue between

defendant, as follows:

A. B., of (insert his place of residence and occupation,) aged years and upwards, being duly and publicly sworn (or affirmed), pursuant to the directions hereto annexed, and examined on the part of the doth depose and say, as follows: First—To the first interrogatory, he saith, &c., [insert the witness's answer.] Second—To the second interrogatory, he saith, &c.; and so on throughout.

If he cannot answer, let him say that he knoweth not.

V. If there be any cross-interrogatories, the witness will go on thus:

VI. When the witness has finished his deposition, let him subscribe it, and the acting commissioner will certify as follows:

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this day of 18 before

Commissioner.

VII. If any papers or exhibits are produced and proved, they must be annexed to the depositions in which they are referred to, and be subscribed by the witness, and be indorsed by the acting commissioners in this manner:

"At the execution of a commission for the examination of witnesses, between defendant, this paper writing was produced and shown to (insert the witness's name), and by him deposed unto at the time of his examination before

Commissioner.

VIII. The acting commissioners will sign their names to each half sheet of the depositions and exhibits.

IX. If an interpreter is employed, one of the commissioners will administer to him the following oath, and certify thereto:

"You do solemnly swear, that you will truly and faithfully interpret the oath and interrogatories to be administered to , a witness now to be examined, out of the English language into the language, and that you will truly and faithfully interpret the answers of the said thereto, out of the into the English language."

Let the deposition be subscribed by the interpreter as well as by witness, and certified by the acting commissioners, as follows:

Examination taken, reduced to writing, subscribed by the witness and by the sworn interpreter, and sworn to by the witness, this day of 18 before

Commissioner.

X. The commissioner will make return on the back of the commission by indorsement, thus:

"The execution of this commission appears in certain schedules hereunto annexed."

Commissioner.

XI. The depositions and exhibits (if any) must be annexed to the commission, and then the commission, the directions, the interrogatories, cross-interrogatories, depositions, and exhibits, must be folded into a packet and bound with tape. The acting commissioners are to set their seals at the several meetings or crossings of the tape, indorse their names on the outside, and direct it thus:

To Esquire,
Clerk of the
at

XII. When the commission is thus executed, made up, and directed, it must be returned in the manner specified in the direction on the commission, if there be any.

XIII. If there be no direction on the commission specifying the manner in which it is to be returned, then it must either be delivered to the Court by one of the acting commissioners personally, or else be forwarded by some person coming to this place, and who must be able, on his arrival, to make oath before one of the judges or the clerk of the Court:

"That he received the same from the hands of A. B., one of the commissioners, and that it had not been opened or altered since he so received it."

XIV. In case of returning the commission by mail, it is to be deposited by one of the acting commissioners in the nearest Post Office, he making the following indorsement thereon:

"Deposited in the Post Office, at
this day of 18 ,
by me,
Commissioner."

In case of returning the commission by a vessel, it is to be deposited by one of the acting commissioners in the letter-bag of such vessel, he making upon the commission the following indorsement:

"Deposited in the letter-bag of the
now lying at and bound for the
port of New York, this day
of 18 , by me,
Commissioner."

The commissioners are requested to be very careful to observe the foregoing instructions, as the smallest variance may vitiate the execution of the commission.

If the commission be returned by an agent, let him be instructed to call, on his arrival at this place, upon who will direct him as to its delivery.

Circuit Court of the United States. Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to John Murphy, of the city, county, and State of New York, a witness on the part of the complainant in this cause.

1. What is your age?
2. What is your business now, and how long have you been engaged in your present employment?—state particularly when you first became so engaged, and for whom.
3. Whether you were ever engaged in the india rubber business, and if so, when, where, and in what department?—state particularly.
4. If you say you have worked in the factories of the Union India Rubber Company in Harlem or elsewhere, state when, where, and what you did in said factory.
5. If you say that you were engaged in the factory of defendants in July, 1853, or at any other time, state whether they used solvents in the manufacture of india rubber; and if not whether machinery; and if machinery, describe particularly the machinery and the process of manufacture.

6. State whether or not the machinery, if any, in defendant's factory is heated by steam; if so, state how it is done.

7. If you say that the rubber is ground by means of rollers, state whether they are friction rollers, or run with friction, and how it is produced.

8. State the entire process, if any, used in defendants' factory for manufacturing india rubber, the time when you knew of it, and all you know about it.

9. Have you read the specifications of Chaffee's patent, and if so, whether or not the machinery and process used by said Company are or are not the same as the process and machinery described in said specifications?

10. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause?—if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover St., N. Y.

John Murphy, of the city of New York, aged thirty-one years, being duly and publicly sworn, pursuant to law, and examined on the interrogatories annexed to the said commission, did depose and say as follows:

1st. I am thirty-one years old.

2d. My business is the manufacture of gutta percha; I have been engaged in the business about three years; I was first engaged for the North American Gutta Percha Company, about three years ago; I cannot state the precise time of year.

3d. I was engaged in the India rubber business from the year 1847 to the year 1851, at Harlem. I was there at the formation of the Union India Rubber Company, and remained with them some time; I was in the machinery department; I had charge of it.

4th. I worked in the factory of the Union India Rubber Company, at Harlem, from the formation of the Company to May, 1851; I had charge of the machinery department.

5th. There were no solvents used while I was there in the manufacture of india rubber; machinery was used; grinders heated by steam, and friction rollers; the grinding was done by a pair of heated rollers, one running faster than the other; the rollers were heated by steam; the spreading was done by heated rollers of an equal speed without the use of solvents. It is not essential that all the rollers should be of equal speed in spreading; we use three rollers in spreading; at the time I was in the factory we had a spreading machine in which the rollers were not of equal speed; it answered all the purpose.

6th. The machinery in defendants' factory was heated by steam;

the steam was generated in the boiler and passed from thence by means of a pipe, and connected to the roller by what is commonly called a stuffing-box.

7th. The rubber is ground by friction rollers of an unequal speed; it is the unequal speed that makes them friction rollers; the friction is produced by one roller revolving faster than the other.

8th. In the first place the native rubber is washed, taken to the grinding rollers, where it is mixed with the usual compounds, sulphur, lead, lampblack, &c., and ground; after grinding, it is taken to the warming machine and thence to the spreading machine, where it is spread on cloth or made up into sheets as they require it.

9th. I have read the specifications of Chaffee's patent; the machinery and process used by the Union India Rubber Company are substantially the same; the principal is the same; the only difference that I am aware of, is that Chaffee claims the use of bars in grinding, which they do not use.

10th. I do not know of any other matter or thing, that would be of benefit or advantage to the parties at issue in this cause, or either of them.

JOHN MURPHY.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 21st day of September, 1855, before

GEO. W. MORTON,
Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to James Marshall, of the City, and County, and State of New York, a witness on the part of complainant in this cause.

1. What is your age?

2. What is your business now, and how long have you been engaged in your present employment? State particularly when you first became so engaged, and for whom.

3. Whether you were ever engaged in the india rubber business; if so, when, where, and in what department? State particularly.

4. If you say, you have worked in the factories of the Union India Rubber Company in Harlem or elsewhere, state when, where, and what you did in said factory.

5. If you say that you were engaged in the factory of the defendants in July, 1853, or at any other time, state whether they used solvents in the manufacture of india rubber; and, if not, whether machinery; and, if machinery, describe particularly the machinery and the process of manufacture.

6. State, whether the machinery, if any, in defendants' factory, is heated by steam; if so, how it is done.

7. If you say that the rubber is ground by means of rollers, state, whether they are friction rollers, or run with friction, and how it is produced.

8. State the entire process, if any, used in defendants' factory for manufacturing india rubber, the time you knew of it, and all you know about it.

9. Have you read the specification of Chaffee's patent; and, if so, whether, or not, the machinery and process used by said Company are or are not substantially the same as the process and machinery described in said specification?

10. Do you know, or can you set forth any other matter or thing, which may be a benefit or advantage to the parties at issue in this cause, or either of them; or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.
1 Hanover Street, N. Y.

James Marshall, of the City of New York, aged twenty-five years, being duly and publicly sworn pursuant to law, and examined on the interrogatories annexed to the said commission, did depose and say as follows:

1st. I am twenty-five years old.

2d. I am in the india rubber business; I have been engaged in that business (with the exception of one year, when I was sick) since the year 1846, to the present time; I was first engaged in that business in the year 1846, the precise time of year I cannot state; I was then engaged by Goodyear and Ely.

3d. I was engaged in the india rubber business in the year 1846. I was first engaged in the heating or curing department, at the factory of Goodyear and Ely, in the City of Brooklyn.

4th. About five years ago I worked in the factory of the Union India Rubber Company in Harlem; I was in the cutting department as cutter; I do not remember the precise date, but it was about five years ago.

5th. I was in the cutting department; they did not use any solvent in the manufacture of rubber, they ground it up without dissolving it; they used regular rubber grinders for grinding it; I was not in the mixing and grinding department, and therefore cannot describe with any accuracy the process of manufacture.

6th. The machinery is heated by steam, which is connected with pipes from the boilers to the rollers or grinders.

7th. One roller moves fast and the other slow, the rubber passing between these rollers I suppose must produce friction.

8th. I do not think myself capable of giving a description of the entire process of manufacturing india rubber, my business being that of cutter in the factory.

9th. I never read the specification of Chaffee's patent, but by description I know it to be substantially the same.

10th. I know nothing more than what I have stated, that would be of benefit or advantage to the parties at issue in this cause.

JAMES MARSHALL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, the 19th day of September, 1855, before me,

GEO. W. MORTON,
Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to George V. White, of the City and County and State of New York, a witness on the part of the complainant in this cause.

1. What is your age?

2. What is your business now, and how long have you been engaged in your present employment?—state particularly when you first became so engaged, and for whom.

3. Whether you were ever engaged in the india rubber business; if so, when, where, and in what department?—state particularly.

4. If you say you have worked in the factory of the Union India Rubber Company in Harlem or elsewhere, state when, where, and what you did in said factory?

5. If you say that you were engaged in the factory of the defendants, in July, 1853, or at any other time, state whether they used solvents in the manufacture of india rubber; and if not, whether machinery; and if machinery, describe particularly the machinery and the process of manufacture?

6. State whether or not the machinery, if any, in defendants' factory is heated by steam?—if so, state how it is done.

7. If you state that the rubber is ground by means of rollers, state whether they are friction rollers, or run with friction, and how it is produced?

8. State the entire process, if any, used in defendants' factory, for manufacturing india rubber the time you knew of it, and all you know about it?

9. Have you read the specification of Chaffee's patent, and if so, whether or not the machinery and process used by said Company are or are not substantially the same as the process and machinery described in said specification?

10. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this

cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause ?—if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.
1 Hanover St., N. Y.

George V. White, of the City of New York, aged fifty-seven years, being duly and publicly sworn, pursuant to law, and examined on the interrogatories annexed to the said commission, did depose and say as follows:—

1st. I am fifty-seven years old.

2d. I am working in the india rubber business; I have been engaged in the business 21 years; I first commenced the business in the year 1834, in the fall of that year; I was engaged by Hutchinson & Onderdonk, at New Brunswick, State of New Jersey.

3d. I was engaged in the india rubber business in the year 1834, at New Brunswick; I was engaged in the shoe department.

4th. I am at this time working in the factory of the Union India Rubber Company, at Harlem. I am cutter and workman in the factory.

5th. I was engaged in the defendants' factory, in the year 1853; they did not use solvents in the manufacture of india rubber, except for mixing cement; they used machinery; they had grinding mills and calenders. The rubber was first ground in the grinding mills, and then spread on the cloth with the calenders; they have calenders and rollers all heated by steam, connected with them through pipes from the boilers. All their grinders are friction mills, consequently one must go faster than the other.

6th. The machinery in defendants' factory is heated by steam, conveyed by means of pipes from the boiler; they are heated to a certain degree, in order to save a solvent.

7th. The rubber is ground by means of rollers; they are friction rollers; the friction is produced by one cog-wheel being larger than the other, consequently one roller runs faster than the other in process of grinding.

8th. The rubber is taken in its crude state, then a compound of mixtures consisting of lampblack, sulphur, white lead, and chalk, are put into a box together and worked into the rubber by these grinding mills; it is then spread on the cloth by the calenders, and then becomes fit for use; I knew about this process when I first went to the factory at Harlem, eleven years ago; that is about all I know about it.

9th. I have read the Chaffee specification. The Union India Rubber Company's machine appears to be the same as the process and machinery described in said specification, as respects heat and friction.

10th. I know of no other matter or thing that I can state, that would be of benefit or advantage to the parties at issue in this cause, or either of them.

G. V. WHITE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this twenty-second day of September, 1855, before me,

GEO. W. MORTON,
Commissioner.

Circuit Court of the United States, for the Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief on the part of the complainant to Frederick C. Wagner, of the city and county and State of New York, a witness in this cause.

1. Where do you reside—what is your age—what is your business, and what was it in July, 1853?

2. Whether or not in July, 1853, and when, if any time, you delivered to the defendants, or any of them, and to whom, a notice signed by Horace H. Day, the complainant?—and if so, state its contents, and annex a copy of the same.

3. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause?—if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover St., N. Y.

Frederick C. Wagner, of the city of New York, aged twenty-four years, being duly and publicly sworn according to law, and examined on the interrogatories annexed to the said Commission, did depose and say as follows:

1st. I reside in the city of New York; I am twenty-four years old; I am clerk in the store of the Congress Rubber Company. In July, 1853, I was a clerk in the same building for Rogers & Wyckoff.

2d. I delivered a notice to the Secretary of the Union India Rubber Company in July, 1853. The notice was signed by Horace H. Day. The paper marked Ex. "A," G. W. M. is a true copy of the notice. It stated in substance that he (Day) had purchased Chaffee's patent for machinery and improvement in the manufacture of india

rubber and grinding rubber without solvent, and forbid the Company using said process or machinery, or infringing said patent.

3d. I do not know of any other matter or thing which I can state, which would be of benefit or advantage to the parties at issue in this cause.

FREDERICK C. WAGNER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 17th day of September, 1855, before

GEO. W. MORTON,
Commissioner.

To the Union India Rubber Company:

Take notice, that I have purchased of Edwin M. Chaffee his patent, dated August, 1850, for machinery and improvement in the manufacture of india rubber and grinding rubber without solvent, and that I now own the same, and that no person has, without my authority, any right to use said machinery and process; and I hereby strictly forbid you using said processes or machinery, or infringing said patent, and you will govern yourselves accordingly.

New York, July 2, 1853.

HORACE H. DAY.

Exhibit "A," referred to in the testimony of Frederick C. Wagner.

GEO. W. MORTON.
Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief on the part of the complainant to Edwin M. Chaffee, of Providence, in the District of Rhode Island aforesaid, a witness in said cause.

1. Where do you reside?
2. What is your business now?
3. Have you any interest in this suit?
4. How long have you been engaged in connection with the india rubber business?
5. How long before that were you connected with it experimenting in any way?
6. Where and when did you first commence experimenting in india rubber, if at all?
7. Where did you next go from there?
8. Under what circumstances; what employment, if you have said Roxbury?
9. Who carried it on?

10. At what time was the india rubber business commenced there?

11. What were your operations there, if any?

12. What took place about the india rubber factory; how did it come into existence, and how early, if at any time?

13. Tell us what that machinery you made for grinding and putting rubber upon cloth was, if you made any?

14. How was it prepared?

15. What was known in the arts about it; how did you prepare it?

16. At that time how much solvent did you use?

17. How did you spread it on the cloth; describe the mode particularly?

18. State whether you made any cloth by this process; and if you did, whether you exhibited it to any one, and whom?

19. Whether any one went into the business, and whom, and under what circumstances?

20. At what date was it started?

21. Were you from the first employed by that Roxbury Company?

22. Did you make good goods, or were they defective; and if defective, how?

23. How long did you manufacture them?

24. Did any of the goods come back defective?

25. At what time did they first begin to become defective, and what was the cause of it, if any came back?

26. What was the cause of it?

27. In that factory how many barrels of solvent did you use in a day along 1834 and 1835?

28. Are you the inventor of this process patented here?

29. When did you begin to make experiments for the purpose of perfecting and carrying out that experiment?

30. When did you first discover that you could dispense with all solvents, if at any time?

31. When did you discover that you could dispense with a large portion of the solvent, if at any time?

32. Had you a machine at the time you made the discovery that you could succeed without any solvent?

33. What was that machine, if you say you had one?

34. At what date was it made? Describe the machine, if you say you made one, and how it operated.

35. How large rollers were they, if it was made with rolls?

36. How were they geared, if rolls were used?

37. Did you grind rubber without a solvent in that?

38. At how early a time did you first discover that you could grind rubber in these rolls without a solvent? What had you used up to that time?

39. How did you discover it—by accident or a series of experiments?

40. When you made that discovery, what did you do in reference to your next machine? Did you continue to use that or make another?

41. Where did you do this, was it in a private room or where—whether you kept it a secret?

42. Was there or not at that time much inquiry among india rubber men in relation to the secrets of maufacturing?

43. State whether or not the recipes used in the business were kept a secret; how it was in this respect with the Roxbury Company.

44. Did you not in 1835 order a machine to carry out your experiments upon, if so, what time in the year?

45. When was it done and where was it made?

46. The one you speak of now, was it the monster machine?

47. Was it made in two detached parts or whole?

48. Did you make your drawings and send them to the patent office before that machine was made?

49. Was your original model all connected together like that?

50. State when and where the machine was completed, where it was first used, and its mode of operation, particularly.

51. Where was the compound and coloring matter put in, and during what part of the operation?

52. Were or were not the rollers heated, and if so, how?

53. Was it or not a necessary part of your process to heat them?

54. When you got the monster machine done, and put it into use, did you want anything to cool the grinding rollers?

55. Why not, if not?

56. Where did the steam come from that heated them?

57. To what degree could you heat the rollers?

58. Was there ever any practical difficulty when you used that machine at Roxbury in grinding rubber on account of the cylinders getting too hot?

59. How long did you run the monster machine yourself at Roxbury, for grinding rubber?

60. State whether during the time from 1835 to 1838 or '39 you had any cooling process attached to the grinding rollers.

61. Was it necessary?

62. What was the reason if not necessary?

63. Was there ever any cold water introduced into the spreading rollers of the monster machine while you had charge of it, and if so, when and for what?

64. If the roll had been smooth, properly adjusted and turned, would there have been any necessity for cold water in the spreading roll at all?

65. Do you use smaller rolls at the present time for grinding and for spreading than pointed out by your patent?

66. If you use smaller rollers, is the cold water necessary or convenient--how is that?

67. When did you first commence using smaller rollers, and where and for what reason? state particularly.

68. How large must the rollers necessarily be to have sufficient strength to grind rubber; what is the smallest size, and what are the proportions of length and diameter?

69. Why do you use cold water, if you do?

70. Is the cold water absolutely essential to the business?

71. Can you go on and make the rubber goods well without cold water?

72. Can your mechanics in your factory?

73. If you say that these grinding or spreading rollers at Roxbury never would heat high enough to become any annoyance, why would yours at your factory?

74. If you stopped the steam off at a proper time, would they never become too hot?

75. Would those at your factory now?

76. Have you dispensed in your practical use of your process with the use of bars?

77. State how you use it now, and wherein it differs, if it differs at all.

78. Did you use any of your grinders at Roxbury without bars?

79. Who drew up your specifications originally?

80. State whether the result will be the same whether you use these bars or the two rollers, and put in the coloring matter between the rollers.

81. Is there any substantial difference between one and the other?

82. How were the rollers adjusted so as to keep them a proper distance from each other?

83. Did you find any trouble in its practical operation?

84. What determined the thickness of the gum as it rolled out?

85. Would it do it accurately?

86. State whether the rubber was spread in the ordinary course of business when you commenced your process with your machine directly upon the cloth, or whether it was first made into a sheet of rubber.

87. At how early a time did you commence by your machine to make rubber into sheets, if at any time?

88. State how car-springs are made at the present time.

89. State whether or not goods were made by your machine in 1835–6.

90. When did you first become acquainted with Charles Goodyear?

91. When did you first become acquainted with the process of vulcanizing rubber?

92. Can vulcanized goods be made successfully without using your grinding and spreading process; and if not, why not?

93. Did you work with Goodyear at any time, and when?

94. Have you ever been employed by him to make experiments in rubber?

95. How many years or months have you been employed since 1837, in making experiments, as near as you can tell?

96. Did you work on a salary?

97. Did you ever make any experiments for Goodyear in reference to the use of coal-tar in rubber?

98. Has there been a patent taken out in Europe or England for the use of coal-tar in rubber, founded upon your experiments?

99. For how long a time did you continue your experiments for Goodyear, in reference to the use of coal-tar in rubber?

100. Who applied for it, if you have said the fact is so?

101. If you state that goods are liable to blister, state what blistering is, and what produces it.

102. State whether you made experiments that led to these hard goods, combs, &c., and if so, when and where, and for whom.

103. State whether you used coal-tar with them?

104. When did you use coal-tar for any purpose connected with india rubber?

105. Where did you use it?

106. State whether you ever knew it as a solvent for india rubber.

107. Have you ever used it for that purpose?

108. What effect would it have upon the rubber?

109. When you used large quantities in the india rubber alone, if you so used it, could you afterwards bring it into any state for use?

110. Do you use it now in connection with your rubber works in small quantities?

111. What do you use it for—what is its object?

112. Wherein does that improve the quality, if it does?

113. Suppose you take about a gill and fill it full of ordinary coal-tar and put it on the rubber in the process of grinding, when the raw material and compound are grinding together in the machine—say a batch of 12 or 14 pounds—will it have any effect as a solvent?

114. State whether or not coal-tar will do any good applied in that way to prevent this bronzing.

115. State what bronzing is.

116. Is the article of india rubber car springs made to any great extent in this country?

117. State whether it is a very extensive business.

118. Can vulcanized car springs be made without your process?

119. Is the manufacture of india rubber belting an extensive business, and can they be made without your process?

120. If you take gum without any compound whatever and spread it upon the outside of cloth by your process, will it stand the atmosphere?

121. Whether or not any india rubber goods that you ever saw will stand direct exposure to the sun?

122. Will vulcanized gum stand the direct rays of the sun, or will it not?

123. Will lamp-black carriage cloths stand the best?

124. Do you mean both the lamp-black carriage cloths and the vulcanized carriage cloths prepared by your process?

125. What is the effect of lamp-black upon the goods?

126. State whether in the invention and discovery that you made or claim to have made, you derived any knowledge or assistance from anybody.

127. How many rollers had your original monster machine—why was four named in your specification?

128. Is there any advantage in the fourth roll, and if so, what is it?

129. Does the vulcanization of the original rubber itself without any compound make it any more effective to resist the rays of the sun?

130. Are any goods now made by the pure gum, such as life-preservers?

131. Which would be the best as to quality, those made of pure gum or those made with the compound?

132. How is it with air-bags and pontoons; which would be best, pure gum or vulcanized?

133. How do you disengage your upper roller in your present machine; what is the reason of it; how does it operate?

134. Is there any substantial difference between this and the old mode of disengaging these rollers?

135. State whether or not you sold your original patent to the Roxbury Company; did you?

136. State how much you received for it, if you sold it.

137. When did you first contemplate, say anything, or do anything about the extension of your patent, if at any time?

138. Was Mr. Hodgman one of the Goodyear licensees at that time?

139. Up to that time had anything been said between you and Goodyear about it?

140. State what the purport of that conversation was with Mr. Hodgman, if you have said there was one.

141. Did you make an arrangement with Mr. Hodgman?

142. When did you next have any conversation about it?

143. Where was it?

144. Did you or not have any conversation with anybody between these times on the subject, and when and where?

145. Did you first apply to Goodyear about it, or he to you, if either?

146. What was the result?

147. Look at the original paper marked "F," and the copy marked "F," and state first whether the copy is a true copy of the original; and if so, annex the copy to your deposition; and state secondly whether or not it was executed by you, and if so, when, where, who was present, in whose writing it is, and all the facts and circumstances attending its execution.

148. State what, if anything, the consideration of the agreement was.

149. State whether or not there was any agreement between you and Goodyear about the carpet and globe business; if so, what it was, when and where made, and all the circumstances attending it.

150. Was there or not about that time any arrangement between you and Goodyear in reference to your going into business with him, and if yea, what it was.

151. Were there two parts of the papers of the 23d of May, made between you and Goodyear, then delivered one to the other?

152. What did you do with yours?

153. When did you next see it?

154. State now whether you employed anybody as counsel or attorney to procure that extension; and if so, who, and under what circumstances. State all the circumstances connected with it that you recollect at the beginning?

155. Whether you consulted Goodyear about counsel, and what, if anything, did he say about it? State particularly.

156. Did he give any reason for what he said, and when?

157. State whether or not you had any conversation with Judson and Staples, or either of them, prior to the signing of that paper?

158. Whether or not Goodyear said anything to you about the expenses; if so, what?

159. Whether or not you saw Judson, and if you did, what, if anything, you said to him and he to you about it?

160. Up to the time of this conversation with Judson, state whether or not you had ever heard anything said in relation to any interest of the Goodyear licensees in this patent?

161. State whether you had heard anything said upon the subject about that time (the time of the extension)?

162. Did you hear anything said about the licensees?

163. Did you say anything to Judson about his acting in the matter; and if so, what?

164. What did he say, if anything?

165. Did you speak to any one else about it, or did any one to you?

166. Was there any conversation between you and Goodyear after or at the time of making that paper of the 23d of May, about what course he should take in reference to the extension, personally, and what course you would take as to being active in the matter; and if so, what conversation?

167. Before the making of that paper, was there anything said about what you should do, or what Goodyear should do?

168. Was there anything said about what you should do?

169. If you have already stated that you were present at the taking of testimony in that matter, were Judson and Staples present at any portion of it?

170. State whether or not you had any consultations with them in relation to the mode of proceeding?

171. During that advisement with these counsel of yours, if they were such, state whether there came up any consideration of the question of what you were to receive, in case it was extended, from Goodyear?

172. After you got your testimony taken, and started to go to Washington, who went with you?

173. State what day of the week you went to Washington, if at any time.

174. How long were you at Washington?

175. Did you leave Washington before or after the extension?

176. Either on your way to Washington, or while in Washington, did you have any conversation with Judson in reference to Mr. Goodyear, and what? State all that was said.

177. Was it while you were in Washington, or on your way to Washington?

178. At that time was there any conversation about what these agreements were; was it talked over between you and Judson, or mentioned?

179. Previous to that time, had there been any conversation between you and Judson in regard to the contract between you and Goodyear, by which you were to have an interest in his glove business?

180. Did Judson, or not, remain with you during the week at Washington?

181. In what capacity, and for whom, did Judson act at Washington in this business?

182. Did you or not have consultations with him?

183. State whether or not Judson, in pursuance of his agreement, did in fact go on and pay any portion of the expenses from time to time.

184. What day was it that you returned to New York?

185. Did you or not see Judson in New York; and when, after your return, if you say you returned?

186. What time in the day, if at any time?

187. Where did you first see him after you got to New York, if at any place?

188. Did you or not have a conversation with him there, and where, and how long?

189. What did he say, if anything, about his patent then?

190. Did he, or not, say anything about your employment at that time?

191. Were you at this time in Goodyear's employment?

192. In whose employment were you up to that time, or previous to it?

193. State whether or not he said anything in relation to the amount of the expenses to you, walking down the street?

194. When did you next see him, if at any time?

195. How happened you to go to Mr. Staples, if you say you saw him there?

196. Who went with you, if anybody, and what day or evening was it?

197. At that time who had possession of the original letters patent?

198. Who, if any one, did you find at Staples' house?

199. Did anything take place there in reference to this extended patent?

200. State what was first said as near as you can recollect.

201. Look at the paper now shown you, and marked "G" by the commissioner, and a copy of the same marked by the commissioner, and state, whether the original was then produced, and under what circumstances; and whether copy is a true copy, and, if true, annex it to your deposition, and whether the original was read.

202. Was that $3000 in the paper at the time it was read to you?

203. If anything, what did Judson say about it; did he, or not, request you to sign it; and, if so, what did you say?

204. What did he say, if anything? State all that was said, the whole conversation.

205. Did Mr. Staples say anything, and what; and did you or Judson reply, and what? State all this conversation.

206. State any acts of Judson at that time; what he did, if anything.

207. State, whether there was anything said about the amount of the expenses by Judson, and if so, what.

208. Whether, or not, Judson said anything about the expenses at Staple's house, and, if so, what he said; state particularly?

209. At that stage of the business, what took place, if anything?

210. If you have said you left, where did you go; and who with you, if any one?

211. When, and where, did you next see Woodman, if at any time?

212. State, whether or not you had told him what had taken place.

213. Did you make any request of him, and have a conversation with him?

214. From that conversation, did you know whether, or not, Woodman was going to see Judson, and when, if at any time?

215. Did you see Judson again, while you were in New York?

216. State, whether you saw Woodman again after that in New York?

217. What did he tell you, if anything?

218. At any time after you left Woodman that morning, before you finally signed the paper, or before you met Judson in New Haven, did Woodman bring you any word or tell you anything that Judson had said to him; and, if so, what?

219. What was it, if anything? State particularly.

220. Did you leave or remain in New York; and where did you go, if you left, and when?

221. What time in the day did you leave, if at all?

222. Where was the original patent at that time?

223. What time did you get to New Haven?

224. Did you, or not, see Goodyear at that time; when did you first see him?

225. Did you, or not, know where he was?

226. Who informed you, if any one?

227. When did you next see Woodman, if at all?

228. Where did you next see Judson, if at all?

229. During this time, had you or not seen Goodyear?

230. Had he, or not, returned to New Haven, to your knowledge?

231. When you first saw Judson, cannot you refresh your recollection so as to say where it was, whether at your house or elsewhere?

232. Did you, or not, know from any source that Judson was coming before he came?

233. Who told you, if any one?

234. Is there anything you have not stated that Woodman told you as coming from Judson? If so, state it.

235. In your opinion at that time, when you met on the 5th of September, what was your extended patent worth?

236. What was the value of the extended patent at the time of extension?

237. To go back to the 5th of September, if you have said already that you have met Judson at your house, do you know who came there first that evening?

238. What took place there? State all that took place particularly.

239. State whether or not any paper was then produced, and if so, by whom and what, and all that was said and done particularly; please give in full all the conversation or acts at your house on that occasion—who was there, who came there, and what was said and done, and whether or not you put any seal on any paper at that time.

240. Whether there was any agreement about how much you was to receive in all, and when to be paid—how much did it all amount to? State all particularly.

241. Had you any knowledge about how much the expenses were—I mean of extension?

242. Had you made inquiries of Judson for that purpose?

243. Whether or not he did tell you the purpose for which he wanted a contract; was there anything said about security, and if so, what?

244. Whether or not did you ask him anything about the legal effect of that paper, and why and what, if anything, did he say?

245. Did he or not state anything about the effect of the last clause in the paper, and if so, what did he say?

246. Was there anything said in reference to these recitals about the contract with the licensees between you and Judson, and if so, what?

247. Look at the recital 2d and 3d in the paper now shown you, purporting to be signed by William Judson, and state whether or not they are true or false?

248. State whether or not there was any counterpart of that paper produced or prepared at your house on the evening of the 5th of September, 1850, and if so, whether there was any seal upon that counterpart, or any placed upon it that evening?

249. Was there or not anything said at that time between you and Judson about having the papers exactly alike, and what was it?

250. Whether or not the $1500 was a part of the annual annuity?

251. While you were executing these papers, or after, or at any other time, did Charles Goodyear come into the room?

252. Were the papers about at the time he came in?

253. How did you ascertain he was coming, if any way?

254. Had you or not seen Goodyear up to that time after you had arrived home?

255. What was the course of the conversation after he got in, if anything?

256. State whether or not he inquired if it had been extended, and the reply, if any?

257. State whether anything was said by any of you in his presence while he remained there, in relation to this affair between you and Judson.

258. With whom did Goodyear leave that night, who remained, who left, and at what time; and did you have any refreshments brought in, and when?

259. Did Judson leave your house that night?

260. Before he left, did he or not have any conversation with you in reference to what you should do with your part of the paper, and when, where, and what?

261. Did you or not see Judson the next day?

262. Did he say anything to you about the paper and what?

263. What did you do with your paper, and what was the reason, if any, that induced you to do so?

264. Was or was not anything said on the night of the 5th of Sep-

tember about making a new paper, or altering the one already made by putting in $1500 instead of $200 or otherwise?

265. Was or was not the $1500 put into the paper that night; and, if not, why not?

282. Did you execute this paper marked "H" by Commissioner, and will you annex a copy of it marked by Commissioner?

283. Was there a counterpart to it?

284. By whom was that paper drawn up, if you know?

285. Prior to the making of that paper, had you any interviews with Judson, after making the first contract; and had you or not written him letters?

286. How many, if any interviews had you had with him, and when and where?

288. Did you or did you not, have any interviews with Judson in 1850 and 1851 in New York, before making this paper of November 12th?

289. Had you, or had you not, been there for the purpose of getting an amendment to the paper before that time; if more than once, how many times, and when?

290. Did you, or not, get it amended; if not, why; give dates and all that took place?

291. Whether or not, at the time of execution of the paper of the 12th of November, 1851, anything was said about the expenses, and what, and by whom?

292. Whether or not you ever received any money on account of license to New England Car Spring Company.

293. Were you, or not, in the office of Mr. Ray about the time the paper of November 12th was executed; and did you, or not, ever in any way assent to Judson's giving that license to New England Car Spring Company?

294. State whether or not Judson paid you that annuity of $1500 regularly, if so, how long; state all that took place about paying the annuity between the making of the paper of the 5th of September, 1850, and July 1, 1853; and if any draft or drafts were given, please produce them, and them marked by Commissioner, and annex copies to your deposition.

295. State whether or not any part of the annuity remained unpaid July 1, 1853; and, if so, how much, and all the circumstances not before fully stated, which you know.

296. Have you, or have you not, ever called on Judson for the annuity, if so, when, where, and what was said and done? State particularly.

297. After that protest, if you have annexed one, did you see Judson in New York, and what was said, if anything, and when?

298. Was or not the original $1500 which was to be paid before this annuity began, paid you?

299. Whether or not you went to Mr. Candee for any portion of this first $1500, or received it from him.

300. How happened you to apply to him for it, if you did?

301. State whether or not the instalments paid you were paid regularly, and, if not, how were they paid; and if any remained unpaid on the 1st of July, 1853, state what ones, and all the circumstances about them, fully.

302. Look at what purports to be copies of two receipts, now shown you by the Commissioner, marked "3" and "4," one dated September 19, 1850, for $1125; one dated October 7, 1850, for $375; state whether you made originals of which those were copies; at whose request they were given; state all you know about them, and whether Judson was present.

303. Whether or not Mr. Staples ever called upon you for his fees in that extension case; if so, when and how, and, if by letter or letters, produce them, and have them marked by Commissioner, and annex copies to your deposition.

304. Whether or not you paid Mr. Staples anything; if so, when, the circumstances under which it was paid?—state particularly all that took place and the time.

305. If you say in answer to the last, you gave a note, or a note was given, produce it, and have it marked by Commissioner, and annex a copy to your deposition, and state if it was paid, and how, and by whom.

306. Whether or not you took from Mr. Staples a receipt; if so, produce it, and annex a copy.

307. What was the value, in your judgment, at the time you talked with Judson, at Mr. Staples' house, of the amount of compensation you were to receive from Mr. Goodyear for your patent?

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, N. Y.

Edwin M. Chaffee, of the city of Providence, in the Rhode Island District, manufacturer of india rubber goods, aged forty-eight years and upwards, being duly and publicly sworn pursuant to the directions hereto annexed and examined on the part of the complainant, doth depose and say as follows:

Answers to Interrogatories.—1st. In the city of Providence Rhode Island.

2d. The manufacture of india rubber goods.

3d. I have not.

4th. About twenty-two years.

5th. Some three or four years.

6th. I first saw some experiments made some time in 1828, as near as I can remember, by a Mr. Britton, in Boston; I also made some myself at that time, and in that place.

7th. I went from there to Roxbury.

8th. In the employment of Mr. John Leomist and Samuel Knower,

where I saw some experiments made by Mr. Haskins in india rubber, which were unsuccessful.

9th. Mr. John Leomist and Samuel Knower.

10th. I commenced the experiments which led to the establishment of the business in the winter of 1831–2, and in the spring of 1832, I constructed machinery and manufactured india rubber cloths in pieces of eight or ten yards in length, which led to a more extensive business in the following summer and fall, in connection with John Haskins, Luke Baldwin, and John Rynax.

11th. The operations were the preparation and spreading of india rubber on cloth, by means of a solvent.

12th. I associated myself with the parties before mentioned, and commenced the manufacture of india rubber goods in a larger way, by the aid of steam power, in the summer or fall of 1832, which business was still further extended in the following winter.

13th. The machinery which I first made for grinding rubber, consisted of an oblong box of wood, the bottom of which was a cylinder of wood; into this box or hopper was put the india rubber, softened with spirits of turpentine, and mixed with lamp-black, where by the friction of the cylinder against one side of the box or hopper, the rubber was cemented into a pasty state, which passing round on the cylinder to the other side of the box, which operated as a doctor, scraping off the composition or paste. This paste was spread upon the cloth by the knife process, the machinery for which consisted of two rolls at one end of a room or long frame, and one roll at the other, around which rolls the cloth revolves in an endless apron. The two rolls at one end were placed horizontally one above the other, a few inches apart, a long box containing the paste and having a long blade of iron on one of its sides was placed so that the blade rested against the cloth opposite the space between the two rolls, so that by tipping up the box, the paste come in contact with the cloth, the quantity or thickness of the coating being regulated by the adjustment of the blade and the strain upon the cloth.

14th. It was prepared as I have just stated in the last answer. I will add further—the compound of lamp-black was a discovery of mine, to prevent the decomposing or softening of the rubber when exposed to the sun.

15th. The use of spirits of turpentine or naphtha had been previously known as a solvent; but without the process of grinding larger portions of solvent were necessarily used, which without the addition of lamp-black would undergo spontaneous decomposition, or soften without exposure to the sun. I prepared my compound as before mentioned with about four to eight ounces of lamp-black to a pound of rubber, and from three to four quarts of spirits of turpentine.

16th. My last answer answers this question.

17th. I have described it in my answer to the thirteenth question.

18th. I made cloth by this process and exhibited it to Mr. John Haskins and others.

19th. Messrs. Haskins, Baldwin, and Rynax, united with me in the business, as I have stated before.

20th. In the summer or fall of 1832.

21st. I was.

22d. They were pretty generally good, with the exception of some which were made from a poor quality of slab rubber, which softened and became sticky.

23d. The poor goods were manufactured but for a short time.

24th. There did, some of them.

25th. Some time in 1834 or '5, as near as I can remember. The cause, as I have stated before, was the use of poor materials, in part, and in part to the old camphene process.

26th. My answer to the last, answers this:

27th. From five to six daily.

28th. I am.

29th. Some time in the winter of 1834–'5. I experimented with steam-heated cylinders.

30th. Some time in the winter of 1834–'5 or early in the following spring.

31st. In 1833, I experimented to condense the solvent from the cloths, which were dried by heat in close chambers, and afterwards experimented with small portions of solvent with the rubber, by means of small rollers made for rolling leather, and afterwards on my steam-heated cylinders.

32d. I had.

33d. The machine consisted of three hollow iron cylinders, heated by steam, which were five or six feet long; the top and bottom cylinder was one foot in diameter, and the middle one eight inches. The bottom rolls or cylinders were geared with even motion, when the top had no gearing.

34th. As near as I can remember it was made in 1834, as I have just described. It operated with friction motion, when the rubber and cloth was placed between the top and middle cylinder, and also when rubber alone was placed there. When the quantity of rubber was small, or when the weight or pressure upon the cylinders were such that they would spring and come in contact with each other at their ends, the top roll would move slow, while the others moved faster; unless the top and middle cylinder touched at their ends, the top one would not move perceptibly.

35th. Their sizes are given in my answer to the 33d question.

36th. Even motion between the middle and bottom roll, and sometimes friction between the middle and top.

37th. I did.

38th. In the winter of 1834–'5, as near as I can remember, I had used up to that time the camphene process, or the use of solvents.

39th. By a series of experiments.

40th. The rolls in this machine did not prove to be stiff enough, and I made another.

41st. It was in a private room, kept as secret as possible.

42d. There was.

43d. They were; and all the men employed in preparing and spreading rubber, gave bonds not to disclose the secret.

44th. I did; in the spring of 1835.

45th. It was done in the same year. The spreading part of the machine was made at Alger's Foundry, South Boston, and the grinding part was made at North Bridgewater, Massachusetts.

46th. It was.

47th. It was made in two detached parts.

48th. I did not.

49th. They were connected only by the foundation on which they rested. The model, I think, was connected, but detached in the drawings.

50th. It was completed at the Roxbury factory as early as the winter of 1835–'6, so as to coat cloths, but the bars mentioned in the patent were not completed until later, but before applying for the patent. It was first used at the Roxbury factory. The rubber was first softened by passing several times through the hot cylinders of the grinding or preparing part of the machine from which it was taken by hand, and placed upon the cloth as it entered between the top and middle cylinder of the spreading part, the rubber in contact with the upper or slow roll, and the cloth upon the middle or fast roll, round which it passed and entered between it and the bottom roll, with even motion, the rubber side of the cloth in contact with the bottom roll, when it passed half way round it, and was taken off and rolled up. The pressure upon the cylinders regulating the thickness of the coat of rubber was adjusted by screws and levers. The bars of the grinding machine, when completed, were used as substitutes for rolls, and had the advantage of occupying less space. The lampblack, or coloring matter, was sifted in between these bars, and mingled with the rubber as it passed in thin sheets or shreds. The unusually light quality of the lampblack which I then used, floated all over the room in the process of coloring and defaced everything in it, which induced me to give up the use of the bars, and I afterwards colored the rubber by a smaller machine in another room.

51st. The coloring matter was put in during the operation of grinding as I have just described, between the bars, but I sometimes passed the rubber and lampblack both together between the cylinders, without the bars.

52d. They were heated by passing steam into them.

53d. It was necessary that they should be heated.

54th. I did not.

55th. They never became too hot.

56th. The exhaust steam of the engine was used.

57th. I had no means of ascertaining exactly, but it was somewhere near two hundred degrees, as near as I can judge.

58th. There was no such difficulty.

59th. Somewhere about two years.

60th. I had not.

61st. It was not necessary.

62d. Those rolls never became too hot, as they sometimes do now, when steam under pressure is used for heating them, and those large rolls were not so liable to become heated by friction as some of the small quick-moving rolls which are now used. Besides which, there was not so great a liability that the compound then used would be damaged by heat as those which are now used.

63d. When the spreading machine was made there was no gauge lathes large enough to turn such rolls, and they were consequently imperfect, and would spread a thicker coat in some places than in others, so that when it became necessary to spread a second coat upon the first, the first was disturbed and became uneven where it was thick, or pinched the tightest, and this difficulty was afterwards partially obviated by introducing cold water into the bottom cylinder, which kept the cloth and rubber in contact with it so cold and hard that it was not disturbed, or less disturbed. That was the only object of introducing the cold water into that machine. The introduction of the water was not till after the machine had been used some time, and after the application for the patent.

64th. There would not.

65th. Smaller ones are more commonly used, yet they are somewhere near the same proportions as to stiffness.

66th. It is convenient in adjusting the temperature when they are inadvertently allowed to become too hot, and it is more necessary in small quick-moving rolls, as their surface comes oftener to the point of friction where heat is generated.

67th. The first small rolls I used I was in a great hurry for, and being in part experimental, expense and delay was avoided. These were used to mix the lampblack with rubber in the summer of 1836, at Roxbury factory.

68th. If they are as much as five feet long they should not be less than fifteen inches in diameter, but I prefer them larger. This is the smallest proportion of diameter per length, and if they are used smaller than three feet long, and one foot in diameter, the neck of the rolls and the gearing is very liable to break.

69th. It is convenient to use it when the rolls are inadvertently heated too hot, and when their motion is too quick.

70th. It is not.

71st. I can.

72d. They can.

73d. Ours do not now when used at a moderate speed, except from carelessness or inattention of the men in stopping off the steam at the proper time.

74th. They would not, at ordinary speed.

75th. They would not, unless the speed was great.

76th. I have.

77th. The rubber and coloring matter both go together now between the rolls the same as they did then between the bars and cylinder, and the lampblack becomes incorporated in the same way.

78th. I did.

79th. I made the original draft and David A. Simmons, Esq., put it into form.

80th. The result will be the same.

81st. There is not.

82d. They were adjusted by screws in the grinding machine, and screws and levers in the coating machine.

83d. I did not.

84th. It was determined by the pressure of the screws.

85th. It would.

86th. One process, as described in my specification, was to spread it directly upon the cloth with friction motion, and by another process also described, it was formed into a sheet by the friction motion upon the middle cylinder passing half round it and coming in contact with the cloth as it entered between the bottom and middle cylinder, both of even motion, where it fastened upon the cloth by the pressure. The first process was used in coating a large quantity of goods for shoes and also for pontoons for the government, and the second process, or even motion, was used in coating carriage cloths, and cloths for ladies aprons, to a large extent.

87th. Rubber was made into sheets in a small way in my first experiments as early as the spring of 1835, also sometimes in the ordinary use of the monster machine in 1836, when the coating of a piece of cloth was completed and its last end was leaving the cylinder, the sheet of rubber would follow unbroken from the cloth and continue to wind up around the roll of cloth in any number of layers or coats to any desired thickness, which was afterwards cut open and separated into a sheet from the roll.

88th. Car springs are made by winding a sheet of rubber upon a mandril in a similar manner, as it leaves the spreading machine; when the roll of rubber becomes large enough, it is cut into the length to fill the mould in which it undergoes the heating process, and is perfectly formed.

89th. There was.

90th. In the fall of 1837.

91st. Some time in 1839.

92d. I do not think they can be made successfully and profitably; without it, it is difficult, if not impossible, to make most kinds of

goods without blistering by the old camphene process, and besides, the goods made by that process will become bronzed with a white metallic surface, which would damage or spoil the goods. Before the introduction of my process by Mr. Goodyear and his licensees, a very large proportion of the goods then made were blistered and spoiled, and by reason of bronzing the process was unfit for manufacturing many kinds of goods now made.

93d. I believe I went into his employ some time in 1838, but had done work for him previously.

94th. I have.

95th. About two years previous to 1840, and a few months also in 1843 or 1844, and also a little more than a year previous to May, 1851, and at various other times, made a few experiments.

96th. I did previous to 1840, and also in the years 1850 and 1851.

97th. I did.

98th. I am informed that there has been.

99th. More or less of the time during the years 1850, and up to May, 1851, besides which I made many experiments in coal-tar for him after the last-mentioned time, and also after he went to Europe.

100th. I am informed that Mr. Goodyear did.

101st. Blistering is produced in the interior of an india rubber fabric by the generation of gases, which cannot escape. I have known goods with camphene in them to swell up like a sponge.

102d. I made the first india rubber which was both hard and flexible suitable for combs, and a substitute for whalebone, some time in 1850, at Naugatuck, Connecticut, for Mr. Goodyear.

103d. I did not with this flexible compound, but I did use it at a later date in other compounds of hard gum.

104th. The first experiment I made was at New Brunswick, New Jersey, in 1849.

105th. First in New Brunswick, New Jersey.

106th. I never have known it as such. I most commonly use it when boiled down into a hard state like rosin.

107th. I never have, as a solvent.

108th. If used in sufficient quantity to operate as a solvent, the goods made from it would undoubtedly be spoiled.

109th. Used in such quantities as solvents are usually employed, it could not be used for any valuable purpose.

110th. I do.

111th. Its object and tendency is to improve the color of the varnish upon the goods, and also more effectually prevents the bronzing, which it is sometimes liable to.

112th. It improves the colors and prevents bronzing, as before stated.

113th. It will not.

114th. It will.

115th. Bronzing is a white, silvery, or metallic surface, which commonly obtains when coal-tar is not used.

116th. It is.

117th. The business is very extensive.

118th. I do not think they can—certainly not to advantage.

119th. It is a very extensive business, and cannot be made, in my opinion, without my process.

120th. It will stand very well unless it is exposed to the sun.

121st. Those which are compounded with lampblack will stand when exposed to the sun.

122d. They will not stand as well as those compounded in the old way with lampblack alone, but will be acted upon much more rapidly by the sun, where they are constantly exposed, as in carriage cloths.

123d. They will.

124th. Yes. They will both stand better, prepared by my process.

125th. Its effect is to prevent spontaneous decomposition, or the softening effect of the sun.

126th. I did not.

127th. The original draft of the machine as it was first ordered to be made, had four rolls, but as the machine was a very long time in making, I was anxious to try it with three rolls to save time, intending to add the fourth afterwards, and should have done so, if the circumstances of the company, and the success of the manufacture had warranted it.

128th. The advantage of the fourth roll is to present the india rubber to the cloth more evenly, and also more evenly warmed; a smoother and better sheet of rubber is now obtained from machines with four rolls than with three.

129th. I suppose heating is meant by the word vulcanization of the question. It does not.

130th. There are.

131st. Those made of pure gum.

132d. Pure gum.

133d. The upper roll is raised or disengaged from the one beneath it, by screws placed between the boxes or bearings of the two rolls. The reason for disengaging the upper one is, that three rolls only are used for some purposes. It operates by raising the upper roll out of contact with the one next beneath it.

134th. Both are relieved from action in substantially the same way.

135th. I did.

136th. I was to receive an increase of salary of five hundred dollars for the term of ten years, and a thousand dollars yearly besides for the same term of time; but I never received but about one thousand dollars on the salary, and about six thousand dollars of the other consideration.

137th. Some time in 1849. I talked with Mr. Hodgman about the extension.

138th. I cannot say whether he was or not.

139th. There had not.

140th. Mr. Hodgman proposed joining me in getting both my patent, and the Atkinson patent extended, and stated that he had control of, or could control, the patent of Atkinson.

141st. I did not.

142d. After having two or three conversations with Hodgman and Mr. Ames, I talked with Mr. Goodyear about it, in the winter of 1849–'50. I think it was in January or February.

143d. I am not sure whether first in New York or New Haven.

144th. With Mr. Ames, at New Brunswick, between the conversations with Hodgman and Goodyear.

145th. I first spoke to Mr. Goodyear about it.

146th. The result was an agreement to procure the extension, which he was to have, on condition that he paid me three thousand dollars and the expenses of the extension, and an interest of one quarter of his globe business, or an interest in the carpet, or some other branch of business, if I preferred.

147th. The copy is a true copy of the original. I will annex the copy to my deposition. It was executed by me at the time it bears date, at the Union Place Hotel, in the city of New York, in the presence of James A. Dorr, and some of the members of Mr. Goodyear's family, and Mr. Goodyear himself. The first part of it is in the handwriting of Mr. Goodyear's son, and the latter part of it is in his own handwriting. That part in the handwriting of Mr. Goodyear's son was first written by Judson, and copied by him, the first paper by Judson being finished by Goodyear. Mr. Judson left after having written the first portion of it.

148th. The consideration of the agreement was, that Goodyear was to pay me three thousand dollars and the expenses of the extension, besides an interest in the globe or carpet business. I had also agreed previously, to take out a patent for the shellac improvements, for a nominal consideration; and the reason which Goodyear alleged for basing the three thousand dollars, partly upon the shellac improvement was, that he expected to realize from immediate sales of it, which would sooner enable him to pay the considerations.

149th. There was an agreement about the globe and carpet business made some time in March, 1850, as near as I can remember, at New Haven. In addition to the three thousand dollars and the expenses of the extension, Mr. Goodyear was to give me one quarter of his globe business, or an equal interest in the carpet business, if I preferred it. These were the considerations for the extension when procured. Mr. Goodyear then expected to be able soon to make arrangements to manufacture one or the other of those articles.

150th. A business was contemplated in which I was to have an interest, as I have stated in my last answer.

151st. There were.

152d. I kept it in my possession.

153d. Not until some little time after the extension, as near as I can remember.

154th. I employed both Mr. Judson and Mr. Staples. Mr. Staples was employed at a time when I consulted him, or had something to do with him, in relation to the petition for the extension. He inquired if I wished him to act for me in procuring the extension, and I told him I did. I think this was on or about the date of the petition, the 22d of May, 1850. I employed Judson on the occasion of my calling upon him to furnish me with the means, or to pay the expenses of procuring the extension, which he agreed to do, and also to take part in procuring testimony for the extension. At the time of making the agreement of the 23d May, or about that time, Mr. Goodyear said he could not then pay the expenses of the extension, but he thought Mr. Judson could accommodate him with the means to do so, and thereupon I applied to him to do so, as I have just before stated. My belief is, that I employed both Judson and Staples some time during that visit to New York, which probably was not more than two or three days.

155th. Mr. Goodyear recommended me to apply to Judson for the means of procuring the extension, and I believe he also recommended me to employ him as counsel. That is the only consultation I can now call to mind.

156th. The reason he gave for proposing that I should call upon Judson was, that he could not then pay the expenses of the extension. This was on or about the 23d of May.

157th. Some time prior to the making of the paper of the 23d of May, I saw Mr. Staples and Mr. Judson at Staples' office, and was shown my original letters patent; but I do not remember what conversation was had there. I had some consultation with Staples about the petition, and probably also with Mr. Judson. This is all that I can think of.

158. On or about the 23d of May, Mr. Goodyear said he could not pay the expenses of the extension, and advised me to go to Judson for assistance.

159th. I saw Mr. Judson on that occasion, or immediately after, and asked him if he could furnish me with the means for procuring the extension, and he replied that he would. I also, on that occasion, asked him to act as counsel for me, which he consented to.

160th. In 1844, or 1845, Mr. Goodyear said he should permit his licensees to use my patent freely; but on another occasion, not long before the 23d of May, 1850, he told me that they had not obtained permission or license to use it, and that they had no claims to the use of the extension when procured.

161st. The last part of the conversation in my last answer, is about that time, or not long before. That is all I can call to mind.

162d. All I can now remember is stated in the answer to the 160th interrogatory.

163d. I called upon him and engaged him to act as counsel, on or about the 23d of May, as I have before stated.

164th. He said he would do so.

165th. I spoke to Mr. Staples also about acting as counsel, which he assented to, as I have before stated.

166th. I do not recollect what in particular was said, except that the understanding was, that I was to procure the extension for my own benefit, which was to be conditionally for his also, as agreed upon.

167th. I cannot call to mind what else, besides what I have stated in my last preceding answer.

168th. I do not remember what was said, but it was the understanding that I was to go and procure the extension.

169th. During the first and longest portion of the time Mr. Judson was present, and Mr. Staples was present during the latter portion of the time, both acting as counsel for me.

170th. I did have consultations with them in relation to it.

171st. There did. The subject of what consideration I was to have from Goodyear was discussed between us—between me and Staples, certainly. The business consideration was particularly mentioned, and I was advised not to answer about the business considerations if interrogated before the commissioner.

172d. I went alone.

173d. I started from home Friday morning, and left New York in the afternoon of the same day, and arrived in Washington on Saturday.

174th. I was there about a week.

175th. I left after the extension.

176th. While in Washington, Mr. Judson said he did not think Mr. Goodyear could ever carry out his agreements with me, that he knew him to be much embarrassed, and that he had exhausted all his friends.

177th. It was while I was in Washington.

178th. I cannot call to mind what was said, if anything, but I have no doubt he knew perfectly well what they were.

179th. The interest which I was to have in the globe business was spoken of some time during the taking of the testimony in the extension to Judson, as I believe, as well as to Mr. Staples.

180th. He did.

181st. He acted for me as my attorney.

182d. I did.

183d. He did.

184th. I left Washington on Saturday, the 31st of August, and arrived in New York on Sunday night.

185th. I saw him on Monday, the next day after I returned.

186th. About the middle of the day.

187th. At the Florence House.

188th. I had a short conversation with him as I went from there down town with him.

189th. He said that Mr. Goodyear would never be able to carry out his engagements with me in relation to the extended patent, nor any of his engagements; that Goodyear was poor and embarrassed, and that he had exhausted all his friends. He offered to assist me to employment, if Goodyear failed to carry out his engagements in that respect.

190th. He offered to assist in furnishing me with employment if I wanted it.

191st. I was, up to the time of taking the testimony, and had only withdrawn from it to procure the extension.

192d. In Mr. Goodyear's.

193d. I don't recollect of his doing so.

194th. I saw him on Monday evening at Mr. Staples' house.

195th. Mr. Judson had previously told me on that day that Mr. Staples wanted to see me at his house in the evening.

196th. Mr. Judson went with me; it was Monday evening.

197th. I had.

198th. No one but Mr. Staples.

199th. There did.

200th. Mr. Judson inquired if Mr. Staples had got a paper prepared.

201st. It was at Mr. Judson's request; the copy is a true copy; I will annex it to my deposition; the original was read.

202d. I believe it was added at that time before reading.

203d. Mr. Judson did request me to sign it, but I objected, on the ground that I wanted to carry out my agreements with Mr. Goodyear in relation to my extension. I also objected that the recitals were not true, and he replied that it was not much matter what they were; he also said that his proposition was better than anything that Mr. Goodyear could do for me. I replied that I valued the globe or business interests higher, which Goodyear had promised me along with the three thousand dollars, and the expenses of the extension as originally agreed upon. Mr. Judson said that the expenses were large and that Goodyear would never be able to pay them; I inquired what the amount of the expenses were; he said he could not tell, but thought they must be as much as four thousand dollars; he continued to urge me to sign the paper and I to decline; he then said I must secure him in that way, for the expenses which he had paid, or he should make me trouble; he would neither trust me or Goodyear for them. Mr. Staples also said he heard that my family were pleasantly situated, and that it was a pity they should be disturbed; I continued to decline and Mr. Judson got up and walked the room in great excitement, saying, if I would not sign the paper I should take the consequences.

204th. The substance of what he said is given in my answer to the last preceding interrogatory.

205th. The substance of what both Judson and Staples said is given in my answer to the 203d question.

206th. He got up and walked the room in great excitement, and said if I did not make such an agreement I should take the consequences.

207th. Mr. Judson said he could not tell what the amount of the expenses were, but thought they were as much as four thousand dollars.

208th. The substance of what he said about the expenses is given in my answer to the 203d interrogatory.

209th. On Mr. Judson's threatening me, I immediately left; it was raining at that time as hard as ever I knew it, and before I reached the hotel I was thoroughly soaked with water; after laying awake all night in great trouble and anxiety, in consequence of what took place at Staples', I was ill for several days after.

210th. I went to my hotel, Mr. Judson going but a few squares with me.

211th. I saw him the next morning at the Florence House.

212th. I did tell him the next morning what had taken place at Staples' the previous evening.

213th. I had a conversation with him, but made no request.

214th. He said he was going down town to see Judson, and he should talk to him about it.

215th. I did not.

216th. I did.

217th. He told me he had seen Mr. Judson, and had had a talk with him. Mr. Woodman asked me if I would be willing to make such an agreement as Judson proposed, if he would pay me fifteen hundred dollars down, and an annuity of twelve hundred dollars a year, but I declined it. He wanted, I should remain, and see Mr. Judson about it, but I told him that it was my intention to take the next train for New Haven, and that I could not remain.

218th. He brought me word that Mr. Judson would pay me fifteen hundred dollars down besides an annuity of twelve hundred dollars a year. He also said that Mr. Judson had threatened to break me up in my business if I did not make such an agreement with him.

219th. I have stated in my last preceding answer the substance of what it was.

220th. I left New York in the midday train for New Haven, on Tuesday, the 3d of September.

221st. Not far from noon.

222d. It was in my possession.

223d. I got to New Haven some time in the afternoon of the same day.

224th. I did not see Goodyear at that time; he had gone from home, and on inquiring at his factory, I was informed he was daily expected back. I first saw him on the evening of the 5th.

225th. I had been informed that he had gone to Naugatuck.

226th. I was informed by my wife.

227th. I saw him the next day after I arrived home.

228th. I saw him next at my house, on the evening of the 5th.

229th. I had not.

230th. He had not.

231st. I cannot remember where else I saw him.

232d. I had been informed by Mr. Woodman that Mr. Judson was coming on.

233d. Mr. Woodman.

234th. I have before stated all that now occurs to me.

235th. It was worth at least twenty-five thousand dollars a year.

236th. It was worth at least twenty-five thousand dollars a year.

237th. Mr. Woodman and myself were then present, when Mr. Judson and Mr. Candee came in.

238th. There was some general conversation in the first place; after which, Mr. Judson exhibited a paper, which was afterwards altered, copied and executed, known as the agreement of the 5th of September, 1850. Before executing it, Mr. Judson offered to pay me an annuity of twelve hundred dollars a year, and the expenses of the extension, and to pay me down fifteen hundred dollars besides. My objections to signing the paper was partly on account of my previous agreement with Mr. Goodyear, which I intended on my return to New Haven to have carried out. I also objected to the recitals in the instrument, that they were not true. Mr. Judson said it did not matter much what the recitals were. On his urging the matter and apprehending trouble from him if I did not, I at last consented to execute the paper, he in the first place agreeing to make the annuity fifteen hundred dollars instead of twelve, and also making some alterations or additions to the paper by which I could use my process in my own business, without the liability of his vetoing or making me trouble about it, as I feared he might do, if he was not refunded the expenses of extension. Mr. Judson's statement that he had paid and become liable to pay the expenses of the extension, and his holding me personally responsible for them, and his insisting upon immediate security, as he did do, and saying he would not trust me or Goodyear for them, which, together with the threats of making me trouble, was the reason why I executed that paper. He offered no inducements which made me prefer treating with him, rather than Goodyear. If the expenses were paid out of a fund, as they are since alleged to have been, I should have questioned the claims he made to his personal security for the expenses which he said he had paid, and should not have made such an agreement with him. Judson also proposed on this occasion that the shoe

associates should pay the expenses of the extension in equal proportions, and take licenses on that condition, and the further condition of paying the annuity. He also said that I had not parted with my interest in the extension, and that my name would be necessary in any license made to them.

239th. A paper was produced. What took place on that occasion is given in the answer to the last preceding interrogatory. There was no seal put upon either of the papers, by any one to my knowledge. Mr. Judson, Mr. Candee, Mr. Woodman, and myself, were present on that occasion. Mr. Goodyear came there late in the evening, after the papers were executed.

240th. There was an agreement about how much I was to be paid; the expenses of the extension were to be paid without any charge to me, and an annuity of $1500 a year, besides which, the sum of $1500 was to be paid down, making about twelve thousand dollars, besides the expenses of the extension, which had not been ascertained.

241st. I had not.

242d. I had.

243d. He said he wanted to be secured by such a contract.

244th. I understood him to say that the legal effect would be to secure him for the expenses of the extension. My belief is that I asked him that.

245th. He said that the last clause was unnecessary, as the fee was still in me.

246th. I told him that some of those recitals were untrue, and he said it did not matter much what they were.

247th. Those two recitals are false.

248th. There was a counterpart produced or prepared at my house on that evening, but there was no seal upon it, and none placed upon it that evening, to my knowledge. I have, however, seen a seal upon it since, which appeared to be of different paper; but I believe there was only one kind of paper there on that occasion.

249th. I said to Mr. Judson that I thought both papers ought to be alike, that both our names ought to be upon each. He said it made no difference, it was just as well without.

250th. It was not.

251st. He did, after they were executed.

252d. On hearing his carriage drive up, Mr. Judson put his paper in his pocket, and requested me to remove the other papers from sight, which I did.

253d. I had not ascertained further than I supposed it to be him, when I heard the carriage stop at the door.

254th. I had not.

255th. After the compliments of the evening were passed, Mr. Goodyear inquired, if the extension had been procured, and he was informed that it had been.

256th. He did inquire, and the reply was that it had been extended.

257th. There was nothing of the kind said in his presence.

258th. Mr. Goodyear, Mr. Candee, and Mr. Judson, left at the same time; and Mr. Woodman remained. They left about ten or eleven o'clock. There were some refreshments brought in, but whether while Mr. Goodyear was then or before, I can't say.

259th. He did.

260th. Not before he left my house.

261st. I did.

262d. He did. When Mr. Woodman was about leaving in the cars for Boston, he requested me to give my paper to Mr. Woodman, so that, if Mr. Goodyear wanted to see it, I could tell him I had not got it.

263d. I handed it to Mr. Woodman at Mr. Judson's request, and for the purpose stated in the last answer. Feeling rather anxious about it a few days after, I wrote to Mr. Woodman for a copy of it, and soon after for the original, both of which he sent me.

264th. There was. Mr. Judson said he would do it then; but it had got to be so late, and he was quite fatigued, and said, he would do it after he got back to New York.

265th. It was not put in, for the reason stated in the last answer.

282d. I did. I will annex a copy of it.

283d. There was.

284th. I do not know. The paper which Mr. Judson first showed me, he said he would have Mr. Jarvis copy before executing.

285th. I had, and had written him letters.

286th. I remember of having two interviews with him. The last was about a week earlier than the 12th of November, and the other was not long before. I went with him on those occasions to Mr. Staples' office. Mr. Judson requested Mr. Staples to draw up a paper conveying my extension in full to him. Mr. Staples asked me if that was so. I told him no, what I wanted was a paper securing to me an annuity of $1500 instead of $1200. He said he could not draw up a paper without knowing what was wanted. Mr. Judson said Mr. Staples knew what he wanted. Mr. Staples said if we would agree what the paper should be he would draw it up. Mr. Judson then said I had better call again at another time, and he would have a paper prepared. The conversation was the same in substance on both these occasions.

288th. I did, as I have stated in my answer to the 286th interrogatory.

289th. I had been several times, and on two occasions within a month previous to the 12th of November, as I have before stated.

290th. I did not. I was told by Mr. Judson to call again and he would have a paper prepared. The dates, and what took place, are set forth in my answer to the 286th interrogatory.

291st. Mr. Judson said that the shoe associates had not taken licenses and paid the expenses, as he proposed they should, and he wanted such a paper as that of the 12th of November, to induce or compel them to do so. In proof that I at that time considered the fee of the extension still in me, I annex a copy of a letter and envelope which I wrote about that time.

292d. I did not.

293d. I do not remember whether I was in there about that time or not. I never in any way assented to that license.

294th. From the 5th of September, 1850, to the 12th of November, 1851, the annuity was very irregularly paid, and I had much trouble in getting it, but from that time to September 1st, 1852, it was regularly paid; but the quarter due December 1st, 1852, was unpaid, and my draft for it protested—soon after which I called upon Mr. Judson and inquired why he let it be protested. He said he had never been able to get anything from the shoe associates towards the expenses of the extension; that he had paid me all he should, and he was sorry he had paid me so much. When the quarter became due, March, 1853, I demanded payment by letter, which I never received an answer to. The quarter and one month due July 1st, 1853, was not paid, making at that time three quarters and one month unpaid. I will produce the draft and protest I have named, and will annex a copy, and also a copy of a letter I wrote about that time.

295th. My answer to the last preceding question is an answer to this.

296th. I did at the time stated in answer to the 294th interrogatory.

297th. I did soon after, when was said what I related in my answer to the 294th interrogatory.

298th. It was.

299th. I believe I did, at the request of Mr. Judson.

300th. I applied to him for it, at Mr. Judson's request.

301st. My answer to the 294th interrogatory is the answer to this.

302d. I made originals, of which those are copies; the one dated September 19th, 1850, was given at Mr. Judson's or Candee's request, and the other at Mr. Candee's request: a part, if not all of the money for which that receipt of September 19th was given, had been receipted for before, or if I received drafts from Candee for that money, I gave other receipts when the drafts or orders were paid. Mr. Judson I believe was present on that occasion.

303d. Mr. Staples made a demand for his services some time in August, 1853, by letter or letters, which I will produce and have them marked, and annex copies. He also afterwards made a personal application in the city of Providence.

304th. I paid him by a draft on Messrs. Bourn & Brown, dated October 1st, 1853, by advice of my counsel. Having an opportunity

to forward the draft and receipt by Mr. Day, I embraced it, and afterwards received the receipt signed by Mr. Staples.

305th. I made a draft, which I produce, and will annex a copy; it was paid by Messrs. Bourn & Brown at maturity.

306th. I did, and will annex a copy.

307th. It was about fifteen thousand dollars, according to my estimation, besides the expenses of the extension.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 20th day of October, 1855, before

SAM'L W. PECKHAM,
Commissioner.

("*F.*")

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth that the said Chaffee, for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereinafter described, specified, hath sold, assigned and set over, and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredients, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same, for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to the said Chaffee the sum of three thousand dollars upon the following terms, viz., one-half of the aforesaid sum, or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent, for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer, or conveyance of his right, title

and interest in said patents to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until said three thousand dollars shall be paid by said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sum of three thousand dollars shall be paid *for* or secured *upon* the patent and improvement on shellac.

In witness whereof we have hereunto set our hands and seals, this twenty-third day of May, one thousand eight hundred and fifty.

CHARLES GOODYEAR,
EDWIN M. CHAFFEE.

Witness: JAMES A. DORR.

Copy of paper "F," referred to in the 147th interrogatory in chief. Marked "*F*" by

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

("*G.*")

Whereas, I, Edwin M. Chaffee, have lately procured an extension of my patent, dated 31st August, 1836, for seven years from the expiration thereof, the expenses of which have been large, by reason of the opposition thereto—but which expense has not yet been ascertained, and cannot be at present: and, whereas, said patent, at the time it was extended, stood in the name of Charles Goodyear, and was held for his benefit, and the benefit of those who had a license, or who had a right to use his vulcanized india rubber, or india rubber prepared and cured according to, and under his patent, dated the 15th of July, 1844, and reissued the 25th of December last: and, whereas, said C. Goodyear agreed with me, for himself and others, using my said patent under him, that they would be at the expense of applying for the extension of said patent, and make me an allowance for the use thereof, in case the same should be extended, to the amount of three thousand dollars, and other considerations: and, whereas, William Judson, Esq., has had the management of said application for said extension, and has paid and become liable to pay, the expenses thereof; and agreed to guarantee me said sum

of three thousand dollars that I shall finally receive the same. Now I, hereby, in consideration of the premises, and to place said patent so that in case of my death, or other accident or event, it may enure to the benefit of said C. Goodyear, and those who had a right to the use of said patent, under and in connection with his licenses, according to the understanding of the parties interested, nominate, constitute, and appoint said William Judson my trustee and attorney irrevocable, to hold said patent and have the control thereof, so that no one shall have a license to use said patent or the improvements secured thereby, other than those who had a right to use the same, when said patent was extended, without the written consent of said Judson, first had and obtained from him, and said Judson for himself and those interested, agrees with me, said Chaffee, that the expenses of extending said patent shall be paid without charge to me; and, further, that I shall be paid said sum of three thousand dollars, on or before the first day of July next, with the interest; and said Judson, and those for whom he acts, are to be at all the expense of sustaining and defending said patent without any charge to me.

Copy of paper "G," referred to in the 201st interrogatory in chief.

Marked "*G*" by SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at his examination, before

SAM'L. W. PECKHAM,
Commissioner.

("*H.*")

Whereas, it was agreed by and between William Judson and E. M. Chaffee, by an article under hand and seal, and dated the fifth day of September, 1850, which agreement was recorded at the Patent Office, September 11th, 1850, on what terms said Chaffee would continue to hold said patent, for the benefit of said Judson and Charles Goodyear, and his licensees:

And whereas, in said agreement there was an omission to state, that if said licensees continued to use the improvements in said patent named, they should each one contribute and pay said Judson his proportion of the expenses and services expended in obtaining the renewal of said patent, which it was intended that said licensees should pay under said Judson, in case they continued the use of the said improvements, for which said patent was issued, after the extension thereof:

And whereas, there was no such direct, absolute stipulation on the part of said Judson, to pay said Chaffee the sum of fifteen hundred dollars per annum, in quarterly payments, on the usual quarter-days, as said Chaffee claimed, and now insists shall be inserted in said agreement:

And whereas, it is now agreed by said Chaffee and said Judson, that said agreement shall be so modified as to secure the objects more fully intended to be secured by said agreement:

Now it is agreed that the said licensees shall each pay his share of the services and expenses, to said Judson, as the condition on which they shall have the license of said Judson to use said improvements; and that on the payment of his or their share or proportion of the services and expenses aforesaid, said Judson shall be authorized to give each a license to use said improvement, on their paying, as aforesaid, severally, each for himself, or his firm, or company. And said agreement is further so altered that said Judson hereby agrees to pay said Chaffee fifteen hundred dollars, in quarterly payments, each year, on the usual and customary quarter-days, on the time set forth in the agreement aforesaid, to which this is an addition and alteration, commencing the quarterly payments on the first day of March next. And I agree with said Judson that he may use my name in the commencement and prosecution of all suits he may have occasion to commence, to sustain said patent or recover damages for any infringement or infringements thereof, or for any other purpose in relation to the same, or the use thereof, he holding me harmless from any costs, by reason thereof, and he to have all the benefits which may be derived from such suits.

WILLIAM JUDSON, [SEAL.]
EDWIN M. CHAFFEE, [SEAL.]

Sealed and delivered this 12th day of
November, 1851, in the presence of
BENJ. H. JARVIS.

Received and Recorded Nov. 27, 1851.

Copy of paper "H," referred to in the 282d interrogatory in chief.
Marked "*H*" by SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at his examination before SAM'L. W. PECKHAM,
Commissioner.

("3.")

Rec'd, New York, 19th September, 1850, from Leverett Candee,

H. Hutchinson, Esq., and Ford & Co., each in the sum of three hundred and seventy-five dollars, making eleven hundred and twenty-five dollars, being in advance of an agreement entered into between William Judson and myself, conveying to said Judson in trust my extended patent of rubber machine.

E. M. CHAFFEE.

SAM'L W. PECKHAM,
Commissioner.

("4.")

Rec'd, New Haven, 6th October, 1850, from L. Candee, three hundred and seventy-five dollars, being the proportion of the Hayward Manufacturing Company of an advance by the shoe associates of fifteen hundred dollars in the patent machine extension.

$375. E. M. CHAFFEE.

SAM'L W. PECKHAM,
Commissioner.

Copy of receipts "3 & 4," referred to in the 302d interrogatory in chief.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto, at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

Copy of letter and envelope ("O.") referred to in answer to 291st interrogatory to E. M. Chaffee.

NEW YORK, Wednesday, 3 o'clock P. M.

DEAR WIFE:

I find it impossible to get ready to come home to-night. Mr. Staples cannot get the agreement drawn up until to-morrow morning. I fear that I shall have to convey the machine patent to Mr. Judson personally, or run the risque of getting my money as I can, and am in considerable perplexity about it. Henry G. thinks Charles will be here to-day, and I shall probably have a chance to see him before

I do anything. Nelson is getting along better than was expected. I think I may go to New Brunswick to-night. I want to see Mr. Coburn about shoe varnish.

EDWIN M. CHAFFEE.

(*Copy of Envelope.*)

New York,
Nov. 5.
5 cents.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto, at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at his examination, before

SAM'L. W. PECKHAM,
Commissioner.

Copies of Draft and Protest referred to in 294th interrogatory and answer of E. M. Chaffee.

PROVIDENCE, December 1st, 1852.

$375.

At sight pay to my order three hundred and seventy-five dollars, value received, and place the same to the debit of

EDWIN M. CHAFFEE.

To WILLIAM JUDSON, Esq.,
Franklin Building, N. Y.

(Indorsed) EDWIN M. CHAFFEE.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and

sworn to by Edwin M. Chaffee, and by him deposed unto at his examination, before

SAM'L. W. PECKHAM,
Commissioner.

UNITED STATES OF AMERICA, State of New York. } ss.

On the 2d day of December, in the year of our Lord one thousand eight hundred and fifty-two, at the request of Messrs. Thompson & Livingston, I, R. Carlton Overton, Notary Public, duly admitted and sworn, dwelling in the city of New York, did present the original draft attached, to William Judson, and demanded payment, which was refused. Whereupon, I, the said Notary, at the request aforesaid, did protest, and by these presents do publicly and solemnly protest as well against the maker of the said draft, as against all others whom it doth or may concern for exchange, re-exchange, and all costs, damages, and interest already incurred and to be hereinafter incurred for want of payment of said draft. Thus done and protested in the city of New York aforesaid, in the presence of John Doe and Rich'd Doe, witnesses.

In testimonium veritatis,
R. CARLTON OVERTON,
Notary Public.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

NEW YORK, December 2d, 1852.

To Mr. EDWIN M. CHAFFEE:

Sir,—I this day protested for non-payment a draft drawn to your order by you, and indorsed by you, on William Judson, of this city, for three hundred and seventy-five dollars, dated Providence, Dec. 1st, 1852.

Resp'lly yours,
R. CARLTON OVERTON,
Not. Pub.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace N. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and

sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

Copy of letter referred to in answer to 294th interrogatory to E. M. Chaffee.

("*N.*")

PROVIDENCE, Dec. 6th, 1852.

Dear Son,—I was expecting to lend the money or pay for aunt Anna's cloak, but on going to the Express office this morning I found my draft on Judson protested; therefore I cannot pay for the cloak. I hope you will let uncle have the money; he says he will return it the first of January. I may have some trouble with Judson, and I am going to N. Y. to-night to see about it. Do not say anything to your Co. until you hear from me again. Write soon and let me know how you get along.

Your affectionate father,
E. M. CHAFFEE.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination before

SAM'L. W. PECKHAM,
Commissioner.

Copy of draft referred to in 305th interrogatory to E. M. Chaffee.

("*J.*")

PROVIDENCE, October 1st, 1853.

$750.

Four months after date, pay to the order of myself seven hundred and fifty dollars, value received, and charge the same to account of

EDWIN M. CHAFFEE.

To Messrs. BOURN & BROWN,
Providence.

Accepted.
Bourn & Brown.

(Indorsed) EDWIN M. CHAFFEE,
SETH. P. STAPLES.

Pay Providence Bank,
J. ANTHONY,
A. Cashier.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

Copy of Receipt referred to in 306th interrogatory to E. M. Chaffee.

("*K.*")

Received of Edwin M. Chaffee seven hundred and fifty dollars in full, for my services and expenses as counsel for him in procuring the extension of his patent for improvements in the manufacture of India Rubber, which patent was dated Aug. 31st, 1836, and extended by the Commissioner of Patents on the 30th of August, 1850—when paid to be in full. N. Y., Oct. 3d, 1853.

SETH P. STAPLES.

SAML. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto, at his examination before

SAMUEL W. PECKHAM,
Commissioner.

Copy of letters from Staples, marked I. L. M., referred to in 303d interrogatory and answer of E. M. Chaffee.

("*I.*")

NEW YORK, Aug. 16th, 1853.

Mr. E. M. CHAFFEE:

Sir,—I have some claims in my hands in favor of the Naugatuck Ind. R. Co., in which you are interested, and concerning which I wish to see you. I was sorry that when you was on here to see Judson, you did not see me. I was informed that you called at the office, but I was not in, and the clerk did not know certainly who it was that called, but from his description I thought it was you. I wish to see you also in relation to my compensation for the services I rendered in obtaining the extension of your patent, which I understood you lately sold to H. H. Day. I have never been paid. Judson has for 6 or 8 months chosen to separate himself and all G——'s concerns as far as practicable from me, and acts without my advice entirely, and appears very unfriendly to me. I suppose because I cannot favor his views and conduct in relation to the G. patents, &c.

I should like to see you before I leave for the West, which will be next Monday, and shall be absent say 12 or 15 days. If you can come on before I leave, please write to me.

Your friend, &c.,
S. P. STAPLES,
142 Broadway.

SAMUEL W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAM'L. W. PECKHAM,
Commissioner.

Copy ("*L.*")

NEW YORK, Aug. 20th, 1853.

Mr. E. M. CHAFFEE:

Sir,—Yours of the 18th was received this morning. I was not aware of the state of things between you and Judson—that if you was to come here you would be in danger of being sued by him. If that is the case you had better not come at present. Next Monday I go to Louisville, Ky.; shall be back between the 5th and 10th Sept., if alive and well, and the subject of consultation must remain till after my return, and then I will write you. I do not know that an interview or consultation will be of any importance, but at any rate it will do no hurt.

It may defeat fraud and falsehood. I knew nothing of Day's movements till after he obtained your conveyance, nor do I believe the man who consulted me knew anything of Day's intentions or movements. His consultation with me was merely professional, to know what I thought of the invention. I have heard that Day has said, to show that he had made a great purchase, that I thought so well of the patent that I had been trying to purchase it. In this he was very much mistaken. I have uniformly declined taking any interest in any india rubber patent beyond that of counsel, and the payment of my fees. Judson has forfeited all claim to my confidence. I can put no trust in him. He is a most ungrateful man, and is trying to prevent my being paid my just demands, and to bring in the shoe licensees to help him. It may cost me trouble and expense, but I hope to be able to compel him to do right. If you wish to communicate anything to me before my return, direct to me at Louisville, Kentucky, where I shall be, I expect, till the 5th of September. If I do not see you immediately after my return, I shall write you.

Your friend, &c.,
SETH P. STAPLES.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

Copy ("*M.*")

NEW YORK, Sept. 24th, 1853.

Mr. E. M. CHAFFEE:

Dear Sir,—You requested me to send you for payment my bill for services in application for the extension of your patent. I spent much of April, May, June, July, and August, in 1850, amount considerably over thirty days, in preparing this case, counsel-opinions, and brief, &c., and I find the amount of my bill is $745 67. Since it has lain so long unpaid, under the expectation that Judson would pay it, call it, if you please, $750 00 in round numbers, which I should be glad to receive by first of October, as I then have to pay an instalment on stock.

Please let me hear from you at your earliest convenience.

Your friend, &c.,
S. P. STAPLES.

SAM'L. W. PECKHAM,
Commissioner.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendants, this paper writing was produced and sworn to by Edwin M. Chaffee, and by him deposed unto at the time of his examination, before

SAMUEL W. PECKHAM,
Commissioner.

The questions and answers in the deposition of Edwin M. Chaffee, numbered 140, 148, 154 to 219, 235 to 239, 240 to 265, 290 to 295, 297 to 301, 303 to 307, and the exhibits marked "3," "4," "*O*," "*N*," "*I*," "*K*," "*L*," and "*M*," were objected to by the defendants, and read subject to all such objections.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief, on the part of complainant, to George Woodman, of Boston, in the District of Massachusetts, a witness in said cause:

1. What is your age?

2. Where do you reside, and what is your business, and was it in 1850?

3. State whether or not in the year 1850, or at any other time, you was applied to, to aid in the extension of the so-called Chaffee patent, and if so, when, where, and by whom?

4. If you say you was so applied to, to aid in the procurement of the extension of the Chaffee patent, and that William Judson, of New York, applied to you, state what he said to you, and what you replied, and all that took place?

5. State whether or not said Judson stated for whom he was acting, and what, if any, agreement he made with you?

6. State whether or not, in pursuance of any agreement, you went to Washington, to aid in the procurement of said extension, and if so, when did you go; for what purpose; who went with you; whether or not you stopped in New York on your way, and who, if any one, went with you; while on your way there, who did you see and hear acting in the matter? state particularly.

7. Whether said patent was extended while you were there, and if so, who, if you know, took the original patent from Washington?

8. Whether or not you returned from Washington, and if so, when; who was with you, and whether you stopped in New York; if yea, where in New York you stopped, and how long you remained?

9. Whether, while in New York, you had any conversation with William Judson about the extension of that patent, or about any contract about the same, and whether you had any conversation with said Chaffee on the same subject; if you did with either of them, state distinctly what was said and done on the subject.

10. State whether or not you had any conversation with said Chaffee, which conversation you afterwards stated to said Judson, and if so, state what you said to said Judson, and what he replied; state particularly.

11. State whether or not said Judson said anything to you about going to New Haven to see said Chaffee; if so, when and where, what did he say, and what did you do in pursuance thereof?

12. If you answer to the last interrogatory, that you went to New Haven to see said Chaffee, state when, what for, at whose request, whether you found Chaffee at New Haven, and when and where, and what, if anything, you said to him, at the request of said Judson.

13. State whether or not (if you answer you were in New Haven) William Judson was there, and whether he came there while you were there, and if he did, at what date, where you saw him in New Haven.

14. If in answer to the last question, you say you saw Judson and Chaffee in New Haven together, state whether they made any agreement—I do not mean written agreement—but contract in your pre-

sence; state all that was said and done between them, where it was, and who was present.

15. If you state you saw Chaffee and Judson together on the 5th of September, 1850, at New Haven, state whether any paper was sealed by said Chaffee in your presence, dated the 5th of said September, or of any other date.

16. State whether at any time you were at Chaffee's house (if you have said you were there), Charles Goodyear came there, and if he did, when, and what took place before he came and while he was there.

17. State whether or not Wm. Judson, on the 5th of September, or the 6th, or any other day, made any request to you in reference to the custody of any paper signed by said Judson, and in the hands of said Chaffee, and if so, what he said, and what, if anything, was done in pursuance of it.

19. State whether or not you heard, at New Haven, a talk of fifteen hundred dollars being paid Chaffee in advance; if so, what did you hear, and was it stated whether or not it was to be a part of the annuity, or an additional sum; what was stated and agreed on this subject? state particularly all you recollect.

20. State whether or not you know any fact not above stated material to this case; if so, please state it in answer to this interrogatory.

21. Whether or not you are acquainted with the rubber business with the old solvent process and the new, and what you know about them and your means of knowledge, and how much the Chaffee process saves, if anything.

22. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, N. Y.

George Woodman, of the city of Boston, in the Massachusetts District, book-keeper, aged fifty-nine years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the complainant, doth depose and say as follows:

Answers to Interrogatories.—1st. Fifty-nine.

2d. I reside in West Roxbury; I am clerk or book-keeper; I was a custom-house officer, in 1850.

3d. I was, by William Judson, at Boston.

4th. When he applied, he said he wanted me to go to Washington. I replied that I thought I could not go; but if the extension was for

the benefit of Mr. Chaffee, as he was an old friend of mine, I would try to go. He, Judson, then said it was for his, Chaffee's, benefit, and that he was acting as his attorney and counsel, and if I would go he would give me one hundred dollars, and if we were successful in extending the patent, he would give me three hundred dollars. Upon these conditions, I made application to the collector for permission; he gave it me, and I went.

5th. I have answered this in my 4th, or preceding answer.

6th. I did, about the 20th of August, 1850, to assist in extending the patent; I went alone; I stopped in New York; no one went with me; I saw no one on the way acting in the matter, but while there I saw Judson and Chaffee.

7th. It was extended, and I believe Mr. Chaffee took it.

8th. I returned from Washington, on the last Saturday in August; Mr. Chaffee was with me; I stopped in New York, at the Florence House, and remained two or three days.

9th. I had, several times, both with Chaffee and Judson. On Tuesday, the 3d day of September, 1850, Mr. Chaffee came to me much agitated, and said he had been invited by Mr. Judson to go to Mr. Staples' house on the preceding evening, that he went, and when there, Mr. Judson began to talk about the extension; he said that Judson had tried to get him to make the patent over to him, and presented to him the draft of some paper which he wanted him to sign, conveying in some way the patent to him, Judson, and wanted him to sign it, or agree to do so, but he said he refused; that Mr. Judson urged his claim upon the ground that he, Judson, had been at all the trouble and expense of getting the patent extended, and that he, Chaffee, was holden for all this large expense, and for all his time and services rendered on the extension. Mr. Chaffee said he still refused, and Judson still urged him to do it, saying that Goodyear had done nothing towards extending the patent, had paid nothing, was poor, and never would pay, and unless Mr. Chaffee secured him in some way on the patent, and not let it go into Goodyear's hands, he should lose all the advances, besides all the time and trouble he had been at. Mr. Chaffee said he still refused, when Judson got into a violent passion, and abused him shamefully, threatening him that if he did not secure him on the patent, he would make him trouble, for he, Chaffee, was holden for all the money he had advanced, and all his other expenses; that he would break him up in his business, if he did not comply with his request, and as he was now comfortably situated, it would be a pity to disturb him and break him up. This was the substance of what Mr. Chaffee told me. I went immediately to Judson and stated to him, as near as I could recollect it, what Mr. Chaffee told me, and Mr. Judson confirmed everything that he had told me. I stated to Judson that I understood from Chaffee that he had undertaken to obtain the patent from him by very unfair means, and that he had invited him up to Mr.

Staples' house, and that he had told Chaffee that he had advanced large sums to obtain the extension, and he must have security in some way from Chaffee on this patent to secure him; that he had said to Chaffee that he was holden for the whole amount of outlay; that it was a very large sum; that unless he made him secure on the patent he would ruin him in his business, if possible. This is the substance of what I stated to Mr. Judson. I told him he had frightened Mr. Chaffee out of his wits, and that I believed that Chaffee had cleared and gone home. I had considerable conversation at that time with Judson, and he confirmed all that Mr. Chaffee had said to me.

10th. I have answered this in the preceding answer to interrogatory No. 9.

11th. Mr. Judson and myself had much conversation, which ended in an agreement for me to go to New Haven immediately. I went for the purpose of bringing about a settlement between him and Chaffee, at his, Judson's, request; this was on the 3d or 4th of September, 1850, I forget which. I went with certain propositions from Judson to Chaffee, which, on my arrival at New Haven, I laid before Chaffee.

12th. I went at the request of Mr. Judson to see Mr. Chaffee; I went either on the 3d or 4th of September, 1850; I found Chaffee at New Haven on my arrival; I believe at the depot; I stated to him that Judson was willing to give him a much larger sum than what Mr. Goodyear had agreed to do; I think that Mr. Judson's proposal was, that instead of $3000, which he, Chaffee, was to receive from Goodyear, besides some other matters, he, Judson, would give him $1200 a year, and $1500 as a bonus; but whether the leave to offer $1500 was given me at that time, I am not clear; but the $1200 I remember well.

13th. Judson came there while I was there; I saw him certainly at Chaffee's house on the evening of the 5th of September, 1850.

14th. They entered into an agreement to pass the patent to Judson, and that agreement was, that Judson was to pay Mr. Chaffee $1500 per annum, for seven years, payable quarterly, $375 each quarter, and to give him $1500 more as a bonus, to be paid down. This agreement was made at Chaffee's house on the evening of the 5th of September, 1850, in the presence of Mr. Candee, Mr. Chaffee, Mr. Judson, and myself.

15th. I do not recollect that any seal was put on any paper that evening; I think there was not on either of the papers of the 5th of September, or of any other date.

16th. Mr. Goodyear came late in the evening, and before he entered the room all the papers were hastily put out of the way, at the request of Judson, that Mr. Goodyear might be kept ignorant of the transactions that had passed between the parties; this was what Judson stated it was for, and requested us not to say anything about it to Goodyear. There was nothing particular said or done while

Mr. Goodyear was there. He was informed of the renewal of the patent, but not of the bargain between Judson and Chaffee.

17th. The next day, the 6th of September, 1850, while at the depôt in New Haven, Mr. Judson told Mr. Chaffee he had better give me his part of the contract of the 5th of September, 1850, to keep, and that if any persons asked him any questions relative to it, he could say he had no such paper in his possession. Mr. Chaffee gave me the paper, and I carried it to Boston.

19th. I heard it stated that Mr. Chaffee was to receive fifteen hundred dollars in advance, as a bonus, and the agreement was particular, independent of the aforesaid ten thousand five hundred dollars, or fifteen hundred dollars per year.

20th. To explain more fully about the seal being on the paper of the 5th of September, 1850, and signed by Chaffee, I would say, that when the question was put to me by Mr. O'Conor, in New York, at the trial *v.* The New England Car Spring Company, I answered that I believed that it must have been there, and at the same time I saw something about that paper that did not appear right: and when I was asked if it was the same paper, I answered I thought it was, but there might have been additions made to it that I could not see at the time. And immediately after leaving the stand, it came across my mind like a flash, that the seal was not there, and I at once saw one of the plaintiff's counsel and stated to him the fact. It could not have been thirty minutes after I stated what I did in answer to Mr. O'Conor, on the stand, that I related the fact to one of Mr. Day's lawyers, I think Mr. Ingersoll, of Connecticut, and he told me I might be recalled and rectify my statement; and I am now fully convinced that no seal was on either paper when they were signed, and as Mr. Judson agreed to have these papers rewritten and corrected at once, on his return to New York, they being considered at the time nothing more than memorandums of the agreement to be carried out.

21st. I am acquainted with the rubber business, with the old solvent and with the new process; I was one of the overseers in the Roxbury India Rubber establishment, almost from the commencement, for two or three years, and was a large stockholder at the same time. Under the old process we used about five quarts of spirits of turpentine to each pound of rubber, and this was all saved by Mr. Chaffee's new process. There was a saving of about thirty thousand dollars per year in spirits of turpentine alone in that factory. Under the old process we were never sure of having good goods, failing frequently in making good goods. With the new process we were sure of having our goods good, making them with greater facility, with a vast amount of saving in labor. I should think that the saving between manufacturing goods under the old process and the new, was at least fifty cents for every pound of rubber worked.

22d. He knoweth not.

GEO. WOODMAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 22d day of October, 1855, before

SAM'L. W. PECKHAM,
Commissioner.

The questions and answers in the depositions of George Woodman numbered 9 and 10, were objected to by the counsel for the defendants, and read subject to all such objections.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY,
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories in chief, on the part of the complainant, to James Waldron, of New York, in the Southern District of New York, a witness in said cause.

1. Did you or not serve upon William Judson at any time, and if so, when, a paper, a copy of which is now shown you, marked by commissioner, "D?" Please state all the circumstances of the service of said paper, and whether or not paper marked D is a true copy, and if so, annex it to your deposition.

2. State whether or not you delivered to said Judson another paper, a copy of which is now shown you, marked by commissioner, E, and if so, when and under what circumstances? Give the date and circumstances, and annex the copy to your deposition.

3. Where do you reside, what is your age and business?

4. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, New York.

To WILLIAM JUDSON, Esq., of the City of New York:

Please take notice, that I have and do hereby revoke, annul, cancel, and render void and of no effect, the power or letters of attorney made and executed by me to you, in reference to my Extended Patent for grinding rubber without a solvent, &c., dated Sept. 5th, 1850, and the addition thereto, dated Nov. 12th, 1851, copies of

which are hereto annexed, and you are hereby forbid in any way acting under and by virtue of said power of attorney, as you have failed to perform and keep your part of said agreement, and all acts done by you will be held void.

Given under my hand and seal, at Providence, in the State of Rhode Island, this first day of July, 1853.

EDWIN M. CHAFFEE, [L. S.]

Witnesses present,
T. A. JENCKES,
THOS. S. ANTHONY.

Copy of paper "D," referred to in first interrogatory in chief.

To WILLIAM JUDSON, Esq., of the City of New York:

Take notice, that I have purchased of Edwin M. Chaffee his patent for improvement in the manufacture of India Rubber, dated August 31st, 1836, and extended August 31st, 1850, for a further term of seven years; and I hereby forbid you, and all other persons, using, or in any way infringing said patent; and I also notify you that I am ready and willing, and hereby offer to pay any and all sums of money that may be due you, if any there is, on account of money advanced in the furnishing the extension of said patent, if any were so advanced by you, or in any other way paid out to or for said Chaffee on account of said patent, and upon your rendering to me information of the amount, if any there is, due you on account as above, I will pay, or cause the same to be paid to you or to such person as you shall nominate and appoint to receive the same immediately.

Given under my hand, at the City of New York, this second day of July, 1853.

H. H. DAY.

Copy of paper "E," referred to in 2d interrogatory in chief.

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, New York.

James Waldron, of the City of New York, aged twenty-one years, being duly and publicly sworn, according to law, and examined on the interrogatories annexed to the said commission, did depose and say as follows:

1st. I served a paper, a copy of which is annexed to this commission, marked "D," upon William Judson, on the second day of July, 1853, at 8½ A.M., at his residence. The paper marked "D" is a true copy of the one I served on William Judson.

2d. I served a paper, a copy of which is annexed, marked "E," upon William Judson, on the second day of July, 1853, at ten o'clock A.M., at his office; I served it on him personally; the paper annexed to my deposition is a true copy of the one I served.

3d. I reside in the City of New York; I am twenty-one years old; I am clerk for Horace H. Day.

4th. I do not know of any other matter or thing which I can state that would be of benefit or advantage to the parties at issue in this cause, or either of them.

J. WALDRON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 19th day of September, 1855, before me,

GEO. W. MORTON,
Commissioner.

PROVIDENCE, R.I., July 2d, 1853.

To the Union India Rubber Company:

You are notified hereby, that William Judson has no authority to act as my attorney, or to give any licenses for the use of my patent for improvements in the manufacture of india rubber, originally dated August 31, 1836, and extended August 31, 1850, for a further term of seven years, and that I recognize no acts of his as binding on me, and that I am under no obligation to ratify anything that he has done in my name.

(Signed) Yours,
E. M. CHAFFEE.

Exhibit "B," referred to in the examination of Edwin L. Simpson.

GEO. W. MORTON,
Commissioner.

To WILLIAM JUDSON, Esq., of the City of New York:

Please take notice, that I have and do hereby revoke, annul, cancel, and render void and of no effect, the power or letters of attorney made and executed by me to you, in reference to my extended patent for grinding rubber without a solvent, &c., dated Sept. 5th, 1850, and the addition thereto, dated Nov. 12th, 1851, copies of which are hereto annexed, and you are hereby forbid in any way acting under and by virtue of said power of attorney, as you have failed to perform and keep your part of said agreement, and all acts done by you will be held void.

Given under my hand and seal, at Providence, in the State of Rhode Island, this first day of July, 1853.

EDWIN M. CHAFFEE. [L. S.]

Witnesses present,
T. A. JENCKES,
THO'S. S. ANTHONY.

Exhibit "D," referred to in the deposition of James Waldron.

GEO. W. MORTON,
Commissioner.

To WILLIAM JUDSON, Esq., of the City of New York:

Take notice, that I have purchased of Edwin M. Chaffee his patent for improvement in the manufacture of india rubber, dated August 31st, 1836, and extended August 31st, 1850, for a further term of seven years; and I hereby forbid you, and all other persons, using, or in any way infringing said patent; and I also notify you that I am ready and willing, and hereby offer to pay any and all sums of money that may be due you, if any there is, on account of money advanced in the furnishing the extension of said patent, if any were so advanced by you, or in any other way paid out to or for said Chaffee on account of said patent, and upon your rendering to me information of the amount, if any there is, due you on account as above, I will pay, or cause the same to be paid to you or to such person as you shall nominate and appoint to receive the same, immediately.

Given under my hand, at the City of New York, this second day of July, 1853.

H. H. DAY.

"Exhibit "E," referred to in the deposition of James Waldron.

GEO. W. MORTON,
Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER CO. } In Equity.

Interrogatories in chief, on the part of the complainant, to Nicholas W. Day, of the city of New York, in the Southern District of New York, a witness in said cause.

1. What is your age and occupation, and are you related to the plaintiff in this suit, and how?

2. Whether or not you at any time was present during the year 1853, when Horace H. Day, the plaintiff, made any offer to William Judson, if so, state when and where, who was present, and precisely what was said by Horace H. Day to said William Judson?—state particularly.

3. State whether or not you made a written memorandum of the conversation stated above—if you state any, or whether any one made such memorandum, and if you have seen it or when—and, if you have stated a conversation, give the date of it.

4. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? If yea, set forth the same fully, and at large, in your answer?

S. BLATCHFORD,
Solicitor for Complainant,
1 Hanover Street, N. Y.

Depositions of witnesses, produced, sworn, and examined, the 15th, 17th, 19th, 20th, 21st, and 22d, and 24th days of September, one thousand eight hundred and fifty-five, at the city of New York, under and by virtue of a commission issued out of the Circuit Court of the United States for the Southern District of New York, in a certain cause therein depending and at issue, wherein Horace H. Day is complainant, and the Union India Rubber Company are defendants, as follows:

Nicholas W. Day, of the city of New York, clerk, aged sixteen years, being duly and publicly sworn according to law, and examined on the part of the complainant on the interrogatories annexed to the said commission, did depose and say as follows:

1st. I am sixteen years old; I reside in the city of New York; I am a son of the plaintiff in this suit.

2d. I was present at Mr. Judson's office when Horace H. Day made an offer to William Judson; that occurred on the fifth of September, 1853; Horace H. Day, William Judson and myself were present; I know that they were there; Mr. Day said to Mr. Judson, Have you made up your account for services, money expended, &c., in procuring the Chaffee extension, and money paid Chaffee? I am ready to pay it now, and should like to do so, and wish to renew and continue the offer to pay it; that is what he said.

3d. I made a written memorandum of the conversation stated above. I saw it when I was examined in the case of Horace H. Day *v.* The New England Car Spring Company; the date of the conversation alluded to was on the 5th of September, 1853.

4th. I know of no other matters or things that I can state that would be material or of benefit to the parties at issue in this cause.

NICHOLAS W. DAY.

Examination taken, reduced to writing, and by the witness subscribed, and sworn to, this fifteenth day of September, 1855, before me,

GEO. W. MORTON,
Commissioner.

The complainant here rested his cause.

The defendants then read in evidence the records, exhibits, and depositions which follow, and the plaintiff read in evidence the cross-interrogatories and answers, unless otherwise noted.

INDENTURE,

Made this eighth day of September, in the year of our Lord one thousand eight hundred and thirty-six, by and between Edwin M. Chaffee, of Roxbury, in the County of Norfolk and Commonwealth of Massachusetts, of the one part, and the Roxbury India Rubber Factory, a corporation duly established by law in said Roxbury, of the other part.

Whereas, the said Edwin M. Chaffee hath, by long study, expense

and experience, invented a new and useful improvement in the application of undissolved caoutchouc, to cloths, leather and other articles in coloring the same, without the aid of a solvent, and in the machinery used in the process, never before known or used. And whereas the said Edwin M. Chaffee hath therefor obtained Letters Patent of the United States of Ameriea, bearing the seal of the Patent Office of the said United States, signed by the Secretary of State of the United States aforesaid, and countersigned by the Commissioner of Patents in due form of law, under the date of the thirty-first day of August last past, granting to him, the said Edwin M. Chaffee, his heirs, executors, administrators, and assigns, for the term of fourteen years, the full and exclusive right and liberty of making, constructing, using, and vending to others to be used, the said invention, discovery, and improvement, as in and by said Letters Patent, recorded in the office of the Secretary of the State, more fully appears.

Now this indenture witnesseth, that the said Edwin M. Chaffee, for and in consideration of the sum of one hundred thousand dollars, to him in hand paid before the signing of this Indenture by the said Corporation, the receipt whereof is hereby acknowledged, hath granted, assigned and set over, and by these presents doth grant, assign, and set over to said corporation, their successors and assigns, the said Letters Patent, and all the right, title, and interest of him the said Edwin M. Chaffee of, in, and to, the said invention and improvement so granted to him. To have and to hold the said Letters Patent, invention and improvement, with all the benefits and advantages thereof to the said corporation, their successors and assigns, in as full and ample manner, to all intents [and] purposes, as he, the said Edwin M. Chaffee, by virtue of the Letters Patent, may or might have or hold the same, if this assignment had not been made, for and during all the rest and residue of said term of fourteen years, granted by the said Letters Patent as aforesaid. And the said Edwin M. Chaffee doth by these presents constitute and appoint the said corporation his assignee and grantee of and for the said invention and improvements, and the profits thereof for the remainder of the said term of fourteen years. And the said Edwin M. Chaffee doth covenant to and with the said corporation, their successors and assigns, that he, the said Edwin M. Chaffee, his executors, administrators and assigns, shall and will yield up, and surrender, and that said corporation, their successors and assigns, shall and may, by virtue of these presents, have, receive, and take, all the profits, benefits, and advantages whatsoever, that may or shall be made or derived, for or by reason of said invention and improvement, and that he, the said Edwin M. Chaffee, his executors, administrators or assigns, shall and will do and execute, or cause to be done and executed, all and every other act and acts, thing and things, devises and assignments in law and equity whatsoever, for the further, better and more perfect assigning and assuring of the said Letters Patent, and the right,

title and interest of him, the said Edwin M. Chaffee, his executors, administrators and assigns therein, and in the said invention and improvement, unto the said corporation, their successors and assigns, as by the said corporation, their successors, and assigns, or their counsel learned in the law, shall be reasonably devised, advised, or required.

In testimony whereof, the said Edwin M. Chaffee hath hereto set his hand and seal, the day and year first above mentioned.

EDWIN M. CHAFFEE. [L. S.]

Signed, sealed and delivered
in presence of us,
JOHNA. DORR,
GEORGE GAY.

Commonwealth of Massachusetts, Norfolk County, *ss.*; 9th September, 1836, then personally appeared the above named Edwin M. Chaffee, to me known, who executed the above assignment, and acknowledged the foregoing assignment to be his free act and deed. Before me,

D. A. SIMMONS,
Not. Pub. and J. Peace.

Ex. D. F. F. Received and Recorded December 18th, 1844.

Here follows a copy of the paper of the 5th of September, 1850, signed by Chaffee.

On the same paper that contained the two foregoing stipulations of the 27th of September, 1855, and upon the bundle marked "S B.," containing the last preceding seven papers, was a stipulation in the following words:

"This record may be read in evidence with the like effect as if the originals therein named were produced and read in evidence, subject to all legal objections, the same as might be made to the originals if produced and read in evidence.

"S. BLATCHFORD."

All the foregoing stipulations, whether found in the paper of the 27th of September, 1855, or indorsed upon the foregoing records, marked S. B., were modified and altered by the two following stipulations:

"The stipulation indorsed on the annexed records, marked 'S. B.,' so far as they relate to what purports to be a conveyance from *the Roxbury Company* to *Andrews and Savage, trustees*, and from *Andrews and Savage* to *Loring and Simmons*, and from *Loring and Simmons* to *Fisher and Simmons*, and from *Fisher and Simmons* to *Goodyear*, only admits the execution of the conveyances the same as though the subscribing witnesses thereto had sworn that they witnessed the same, and that their names appearing as witnesses are their genuine signatures, but not that the witnesses witnessed the

execution on the day of the date of the papers respectively, nor as precluding the plaintiff from showing when the signatures of such witnesses were placed to such papers respectively. This stipulation is a substitute for the ones so indorsed on the back of the said records, and for the stipulation of September 27, 1855, so far as it relates to the conveyances hereinbefore mentioned. Oct. 31, 1855. Day *v.* The Union India Rubber Company.

S. BLATCHFORD,
Solicitor for Day.
J. B. STAPLES,
Solicitor.
By S. P. STAPLES."

The conveyance from the Roxbury India Rubber Company to Andrews and Savage was read, subject to the objection by the complainant's counsel, that there was no right to read it under the stipulations and proof in the cause. To which decision, admitting the said conveyance, the counsel for the said complainant then and there, in due time, manner and form excepted.

Indenture, made this twenty-fourth day of May, in the year eighteen hundred and thirty-seven, by and between the Roxbury India Rubber Factory, a corporation duly established by the Legislature of Massachusetts, of the one part, and Ebenezer T. Andrews and James Savage, of Boston, in the county of Suffolk, Esq., Trustees of the associates for purchasing the property and effects of said corporation, of the second part, Whereas, Edwin M. Chaffee, by study and experience, invented a new and useful mode or improvement, in the application of undissolved caoutchouc, to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, never before known or used in the process, and said Chaffee obtained Letters Patent of the United States of America, in due form, under date of the thirty-first day of August, eighteen hundred and thirty-six, and afterwards on the eighteenth day of September, in the same year last mentioned, the said Edwin M. Chaffee, by indenture in due form of that date, sold, assigned, and transferred to said corporation, their successors, and assigns, for a valuable and adequate consideration, the said letters patent, and all the right, title, and interest of him, the said Chaffee, of, in, and to the said invention and improvement so granted to him, to have and to hold the same, with all the benefits and advantages thereof, in as full and ample manner as said Chaffee might have held the same for and during all the term of fourteen years, as granted by said letters patent.

And whereas, said corporation have agreed to sell, transfer, and assign said patent, and all advantages to be derived therefrom, to said Andrews and Savage, trustees, as aforesaid:—

Now, this indenture witnesseth: That said Corporation, in consi-

deration of the sum of one thousand dollars to them paid, the receipt whereof is acknowledged, have granted, assigned, and set over, and by these presents grant, assign, sell, and set over to said Andrews and Savage, their executors, and administrators, and assigns, the said letters patent, and all their right, title, and interest therein, as fully as the same were granted to them by said Chaffee, to have and to hold the said letters patent, invention, and improvement, with all the benefits and advantages thereof, to said Andrews and Savage, in the most full and ample manner, for and during the rest and residue of the said term of fourteen years, granted by the said letters patent; and the said Corporation constitute and appoint said Andrews and Savage their executors, administrators, and assigns, assignees, and grantees, of and for said invention and improvement, and the profits thereof, with power to do and perform all needful acts and things touching the premises, as fully as said Chaffee or said Corporation might, if this assignment had not been made, and as in and by said letters patent, and said assignment made by said Chaffee, both of which are duly recorded in the Patent Office of the United States, more fully appears.

In testimony whereof, said Corporation, by William Savage, their President, have caused their seal to be hereto affixed, and these presents to be signed, at said Boston, the day and year first above written.

WILLIAM SAVAGE, [L. S.]

Executed and delivered
in the presence of
J. T. W. SARGENT,
D. A. SIMMONS.

Commonwealth of Massachusetts,
County of Suffolk, 15th September, 1841. } *ss.*

Then personally appeared William Savage, President, and acknowledged the forgoing instrument by him executed, to be the free act and deed of said Corporation, before me,

DAVID A. SIMMONS,
Justice Peace.

UNITED STATES PATENT OFFICE.

Received and Recorded, December 18, 1844.

("*A.*")

Know all men by these presents, that we, Ebenezer T. Andrews and James Savage, of Boston, in the County of Suffolk, and Commonwealth of Massachusetts, Esqrs., trustees, mentioned in the foregoing assignment from the Roxbury India Rubber Factory, to us in consideration of the sum of one thousand dollars, to us paid by Francis C. Loring, of Boston, Suffolk County, and David A. Simmons, of

Roxbury, in the county of Norfolk, Esqrs., trustees, the receipt whereof is acknowledged, have sold, and hereby sell, transfer, and assign to said Loring and Simmons, all our right, title, and interest whatsoever, in and to the patent, patent-rights, privileges, and advantages granted to Edwin M. Chaffee, for his improvement in the application of caoutchouc to cloths, leathers, and other articles, in coloring the same without the aid of solvents, and the machinery used in the process never before used, and vending the same, and all benefits to be in any manner derived therefrom.

To have and to hold the afore-granted premises to them, the said Loring and Simmons, their executors, administrators, and assigns, in as full and ample manner as we might have held the same if this assignment had not been made; and we grant them our full power and authority to do and perform all acts and things, in court and out of court, touching the premises, as we could or might, if personally present, for their own benefit, at their own expense, and free of reference to us, or either of us.

In witness whereof, we have set our hands and seals this 15th day of March, 1841.

EBENEZER T. ANDREWS, [L. S.]
JAMES SAVAGE, [L. S.]

Executed in presence of
JAS. S. HICKS,
FRANKLIN H. STORY.

Commonwealth of Massachusetts, } ss.
County of Suffolk, September 16th 1841, }

Then personally appeared the above named Andrews and Savage, and acknowledged the foregoing instrument to be their free act and deed. Before me,

FRANKLIN H. STORY,
Just. Peace.

UNITED STATES PATENT OFFICE.

Received, this 18th day of December, 1844, and recorded in Liber T. page 231 of Transfers of Patent Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

H. L. ELLSWORTH,
Commissioner of Patents.

The counsel for the defendants then read, subject to every objection which could be taken thereto by the said complainant, the paper marked "*B*," and the objections were reserved by the court. And to the decision admitting the same the counsel for the said complainant then and there, in due time, manner and form excepted.

("*B*.")

Know all men by these presents, that Francis C. Loring and

David A. Simmons, trustees, mentioned in the foregoing or within written deed, in consideration of the sum of ten dollars, to us paid by Warren Fisher and George A. Simmons, of Roxbury, in the county of Norfolk, merchants, the receipt whereof is hereby acknowledged, have sold and do hereby sell, transfer, and assign unto said Fisher and Simmons, all our right, title and interest whatsoever, in and to the patent, patent rights, privileges and advantages granted to Edwin M. Chaffee, for his improvement in the application of undissolved caoutchouc to cloths, leather and other articles, in coloring the same without the aid of a solvent, and the machinery used in the process, never before used, and vending the same, and the benefits to be in any manner derived therefrom. To have and to hold the afore-granted premises to them, the said Fisher and Simmons, their executors, administrators and assigns, in as full and ample manner, as we might have held the same if this assignment had not been made; and we grant to them our full power and authority to do and perform all acts and things in court and out of court, touching the premises, as fully as we could or might, if personally present, for their own benefit and at their own expense, and free of expense to us or others of us.

In witness whereof, we have hereto set our hands and affixed our seals, this 15th day of September, 1841.

FRANCIS C. LORING, [L. S.]
D. A. SIMMONS, [L. S.]

Executed in presence of
C. W. LORING.

Commonwealth of Massachusetts, }
Suffolk County, 15th day of September, 1844. } *ss.*

Then personally appeared the above Francis C. Loring and David A. Simmons, and acknowledged the aforegoing instrument to be their free act and deed.

Before me,
W. DEHON,
Just. Peace.

UNITED STATES PATENT OFFICE.

Received, this 18th day of December, 1844, and recorded in Liber T., page 232 of Transfers of Patent Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereto affixed.

HENRY H. ELLSWORTH,
Commissioner of Patents.

("*C.*")

Know all men by these presents, that we, Warren Fisher and Geo. A. Simmons, of Roxbury, in the county of Norfolk, merchants, mentioned in the foregoing deed of Francis C. Loring and David A

Simmons, in consideration of the sum of twenty dollars, to us paid by Charles Goodyear of Boston, in the county of Suffolk, and Commonwealth of Massachusetts, the receipt whereof is hereby acknowledged, have sold, and do hereby sell, transfer, and assign unto the said Chas. Goodyear, all our right, title, and interest whatsoever in and to the patent, patent rights, privileges, and advantages granted to Edwin M. Chaffee for his improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of solvents, and in the machinery used in the process never before used, and vending the same, and all the benefits to be in any manner derived therefrom. To have and to hold the afore-granted premises to him, the said Goodyear, his executors, administrators, and assigns, in as full and ample manner as we might have held the same, if this assignment had not been made.

And we grant to him our full power and authority to do and perform all acts and things in court and out of court, touching the premises as fully as we could or might if personally present, for his own benefit, at his own expense, and free of expense to us, or either of us.

In witness whereof, we have hereto set our hands and seals this twenty-eighth day of July, eighteen hundred and forty-four (1844).

WARREN FISHER, [L. S.]
GEO. A. SIMMONS, [L. S.]

In presence of
AARON BRADBURY,
D. A. SIMMONS.

Commonwealth of Massachusetts, } ss.
July 1st, 1844. }

Then personally appeared the above-named Warren Fisher and George A. Simmons, and acknowledged the foregoing instrument to be their free act and deed. Before me,

DAVID A. SIMMONS,
Jus. Peace, Mass. Commth.

UNITED STATES PATENT OFFICE.

Received this 18th day of December, 1844, and recorded in Liber T, page 236, of Transfer of Patent Rights.

Recorded in the City of Washington, acct. to Law.

This Indenture, made the 18th day of July, 1844, by and between Charles Goodyear, of Naugatuck, New Haven County, State of Connecticut, of the one part, and the Naugatuck India Rubber Company, a joint stock corporation, duly incorporated pursuant to the statute of the State of Connecticut, of the other part.

Witnesseth—That the said Charles Goodyear, in consideration of the payments and stipulations herein provided, hath given and

granted, and by these presents doth give and grant, unto the said Naugatuck India Rubber Company, a full and absolute license to use any and all his preparations of india rubber and improvements, in the preparation of india rubber for manufacturing cloths or any other article of merchandise, or any article which the same may be applicable, for and during the unexpired term of all patents issued to him bearing any date whatsoever, and for and during the unexpired term or terms of any other patents, or renewal of patents owned by him, or in which he may have an interest issued or to be issued, and this license is to extend to all his said Goodyear's future improvements and preparations of india rubber, whether patented or not, and is subject to, and is not to impair the licenses and grants to make the following enumerate kinds of india rubber goods, heretofore granted by said Goodyear, namely, napped cloths, coats, caps, mittens, gloves, and the license heretofore granted by said Goodyear to William De Forrest, and associates, at Naugatuck, to manufacture india rubber shoes, for five years from the first of October, 1843.

And the contract made by said De Forrest with Samuel P. Lewis, for a continuance of said license for five years further, and the license heretofore granted by said Goodyear to Ralph B. Steel and his associates at New Haven, to manufacture india rubber shoes for three years, from the first day of June, 1844, but after the expiration of said respective terms, this license shall extend to, and include the manufacture of india rubber shoes in the same manner, and as fully as any other article of india rubber goods.

And the said Charles Goodyear does hereby for himself, his heirs, executors, administrators, and assigns, covenant and agree to and with the said Naugatuck India Rubber Company, not to make, use or vend, or to grant to any other person or company whatever, any other license to make, use or vend said preparations or improvements in the preparation of india rubber, or to apply the same to any of the purposes to which the same can be usefully applied during the continuance of the license hereinbefore specified and granted to the Naugatuck India Rubber Company, subject nevertheless to the following reservations, namely: That if at any time after the 20th day of July, 1844, the said Goodyear, his heirs, executors, assigns, or administrators, shall deem it for his or their interest to sell for a stipulated price or sum in gross, the exclusive right for the unexpired period or periods for which the same may be invested in him or them of making, using or vending said preparations or improvements, or of applying the same to, or for any specific purpose or purposes only, or to and for all the purposes and uses to which said improvements may be adapted or applied, the right and liberty of so doing is hereby expressly reserved to the said Goodyear, his heirs, executors, administrators, or assigns, provided, nevertheless, that before any such sale or sales shall be made by him or

them for any such stipulated price or sum in gross, The Naugatuck India Rubber Company shall have the right to become the purchasers thereof, at and for such price or sum in gross, and such sale or sales shall not be made to any other person or company except on the refusal or neglect of the said Naugatuck India Rubber Company, for sixty days' time after such offer shall have been made them, to become the purchasers thereof as aforesaid, nor then, until one-fourth part of such stipulated price or sum in gross shall be first paid or secured to said Naugatuck India Rubber Company to their satisfaction, by said Goodyear, his heirs, executors, administrators or assigns, and thereupon the license hereinbefore granted to the said Naugatuck India Rubber Company, shall be the extent of the exclusive right or rights which shall be sold as aforesaid, and for which one-fourth part of the price shall have been paid or secured to them as aforesaid, wholly cease; and the said Charles Goodyear for himself, his executors, administrators, and assigns, hereby further covenants, and agrees with the said Naugatuck India Rubber Company that he will at all times, and to the best of his ability, aid and assist the said Naugatuck India Rubber Company in the carrying on of the said manufacture of india rubber goods, by furnishing to them any information which he the said Goodyear now possesses, or may hereafter possess or acquire, which may enable them to carry on or improve and extend the said manufacture, and by using his, said Goodyear's, influence in procuring for them orders and business and a sale for the articles which they may manufacture, and that the said Goodyear, his heirs, executors, administrators, and assigns, will at his and their expense and cost, prosecute with all possible despatch, and carry on to final judgment a sufficient number of suits against violation of the aforesaid patents, or any other patents of said Goodyear's, relating to the composition or machinery, either so as to defend and protect said Naugatuck Company, in the full enjoyment of all their privileges, or until it shall appear to disinterested judges in the law, that said patents cannot be defended by law; and the said Naugatuck India Rubber Company for themselves, and their successors, in consideration of the premises, hereby covenant and agree with the said Goodyear, his heirs, executors, administrators, and assigns, to pay to him or them, semi-annually, five cents on each and every merchantable square yard of india rubber cloth, so as aforesaid manufactured by them, whether made up into articles by them, or sold in the piece, due and proper allowance being made for the trimming and shrinking of goods—and for other india rubber goods not reducible to the square yard an equivalent thereto. It is provided, nevertheless, that if said Naugatuck India Rubber Company shall enter into the manufacture of india rubber paper, or goods made of india rubber and raw cotton for maps, book binding, paper hanging, covering of band boxes, and the like, or the maufacture of cheap muslins for umbrella covers, cloth sold to others for japanning or covering of band boxes, the

price of these light goods aforesaid shall be three cents per square yard, to be paid to said Goodyear, his heirs, executors, administrators or assigns.

And the said Naugatuck India Rubber Company further covenants and agrees with the said Goodyear, his heirs, executors, administrators and assigns, that they, the said Naugatuck India Rubber Company, will stamp with the words "Goodyear's Patent," each and every article and piece of india rubber goods, manufactured by them, when the size and circumference thereof will admit the same to be conveniently done; and also, that they, the said Naugatuck India Rubber Company, will keep true and correct accounts and books, showing the kind and amount of all the goods, merchandise, and articles so as aforesaid manufactured by them, and showing the amount to be paid to said Goodyear truly and fully; which accounts and books shall at all reasonable times be open to the inspection of said Goodyear, of his heirs, executors, administrators or assigns, for the purpose aforesaid; and also, that all improvements and discoveries made by them, the said Naugatuck India Rubber Company, as well by said Goodyear, his heirs, executors or administrators, either in relation to the gum, composition, machinery, method or process of preparing and manufacturing said india rubber goods, shall be the property of said Goodyear, his executors, administrators or assigns, and shall be patented by him or them, at his or their own cost (if deemed advisable to be patented), and shall be subject to all the terms, conditions, and stipulations of this instrument, and the said Naugatuck India Rubber Company shall have the same rights, powers, and privileges, in and respecting the same, as they have to the invention, preparations, and improvements, which are the subject-matter of this instrument. And also, that in case said Naugatuck India Rubber Company shall sell, assign or transfer to any person or company any portion, or all, of the rights granted to them by said Goodyear, by this instrument, they shall in every such sale, transfer or assignment, insert an agreement on the part of every such purchaser, that such purchaser will comply with all the terms, conditions and stipulations, which the said Naugatuck India Rubber Company are bound, by this instrument, to observe and perform so far, as the same shall be applicable to the right so purchased.

But the said Naugatuck India Rubber Company shall not be held responsible for the fulfilment, on the part of any such purchaser, of any such stipulations or agreements.

And further, that said Naugatuck India Rubber Company shall furnish to said Goodyear, his heirs, executors, administrators or assigns, specimens of such articles of india rubber goods, as the said Naugatuck India Rubber Company have the facilities of making, when required by him or them, he or they paying the full cost price thereof, taking into view the convenience and inconvenience of making the same.

And further, that if the said Naugatuck India Rubber Company, and their assigns, shall for the term of one year, at one time, neglect, or refuse, or be unable from want of means to prosecute the business, contemplated by this instrument, or to stamp the articles manufactured in disregard of the written remonstrances of the said Goodyear, or his executors or administrators, so that the object of this instrument shall fail for said term, then at the expiration of said year, the license contained in this instrument shall become and be void, and of no effect as to the time after said year.

And whereas, the said Goodyear has heretofore sold to D. L. Suydam, of New York City, the right to manufacture shirred goods, the said right is hereby excepted from the operation of this instrument, in addition to the exceptions above-mentioned.

In witness whereof, the said parties have hereunto placed their hands and seals in duplicate, at the city of New Haven, on the 18th day of July, 1844. And the said Company having no corporate seal used an ordinary seal in the execution of this instrument.

CHARLES GOODYEAR, [L. S.]
NAUGATUCK I. R. CO. [L. S.]
By THOMAS LEWIS, [L. S.]
President and Agent.

Signed, sealed, and delivered
in presence of
HENRY C. LANDON,
ISAAC H. TOWNSEND.

State of Connecticut, New Haven County, *ss.*

New Haven, this 18th day of July, 1844, then and there personally appeared Charles Goodyear, to me well known, signer and sealer of the above and foregoing instrument, and acknowledged the same to be his free act and deed, before me the subscriber,

ISAAC H. TOWNSEND,
Justice of the Peace for said County.

State of Connecticut, New Haven County, *ss.*

New Haven, this 24th day of July, 1844, then and there personally appeared Thomas Lewis, President and agent of Naugatuck India Rubber Company, to me well known, signer and sealer of the above and foregoing instrument, and acknowledged the same to be his free act and deed, and the free act and deed of said Company, before me the subscriber,

ISAAC J. TOWNSEND.
Justice of the Peace for said County.

This Indenture, made this fourth day of December, eighteen hundred and forty-eight, between the Naugatuck India Rubber Company, a corporation duly incorporated, pursuant to the statute of the State of Connecticut, of the first part, and the Union India Rubber

Company, established in the city and county of New York, of the second part.

This Indenture witnesseth, that the party of the first part for and in consideration of the sum of fifty thousand dollars lawful money of the United States of America, to them in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained and sold, and by these presents do grant, bargain, and sell, assign, transfer, and set over unto the party of the second part, their successors and assigns, all and singular the right, title, and interest of the party of the first part of, in, and to a certain letter of license, granted by Charles Goodyear to the party of the first part, bearing date the 18th day of July, 1844, and recorded in the Patent Office, in the City of Washington; by which said license, or grant, the said Charles Goodyear, did bargain, sell, and assign unto the said Naugatuck India Rubber Company, party hereto of the first part, their successors and assigns, a full and absolute right and license to use all his improvements in the preparation of india rubber as secured to him by patents from the United States, so far as they relate to or may be used in the manufacture of any article of merchandise, except such as in the said letters of license are excepted, as will more fully appear by reference to the said license, and which is for that purpose made a part of this assignment, and except piano forte covers and buckets.

Hereby giving and granting to the party of the second part, their successors and assigns, full power and authority, at their risk and expense, to do all matters and things that they, the party of the first part, might or could lawfully do under and by virtue of the said letters of license in the premises, had not these presents been made.

Subject, however, to the payment of all the percentage, and all other moneys therein mentioned to be paid, and the due performance of all and singular the covenants and agreements therein mentioned, which on the part and behalf of the said Naugatuck India Rubber Company are to be paid, kept, done and performed, and which the said party hereto of the second part hereby assume, and agree to pay and perform.

To have and to hold the above granted and bargained premises, all benefit and advantage to be derived therefrom, unto the party of the second part, and to their successors and assigns, for and during the time the party of the first part would be entitled to the same had not these presents been made.

And the said party hereto of the second part do hereby covenant, promise and agree, to and with the said Naugatuck India Rubber Company, that the said party hereto of the second part, and their successors and assigns, will pay, perform and comply with all the terms, conditions and stipulations in the several agreements of the said party hereto of the first part with the said Charles Goodyear, which the said Naugatuck India Rubber Company is bound by the said

several agreements, hereinbefore referred to, to observe and perform, so far as the same shall be applicable to the rights so purchased, and the party of the second part, its successors or assigns, hereby agree to indemnify and save harmless the party of the first part for any loss or damage they may sustain by any default in this agreement.

And for the true and faithful performance of the agreements herein contained, each party bind themselves firmly by these presents.

In witness whereof, the party hereto of the first part hath caused their common seal to be attached, and the same to be signed by the treasurer, who is authorized so to do; and the party hereto of the second part hath hereto caused their common seal to be affixed, and the same to be signed by their treasurer and countersigned by their secretary, the day and year first above written.

JONA. TROTTER, [L. S.]
Treasurer of the Naugatuck India Rubber Co.
WILLIAM RIDER, [L. S.]
Treasurer of the Union India Rubber Co.
F. W. G. BELLOWS, [L. S.]
Secretary of the Union India Rubber Co.

Sealed and delivered in presence of
WILLIAM E. RIDER,
THOMAS CAMPION.

UNITED STATES PATENT OFFICE.

[L. S.] Received the 19th, and recorded the 22d day of February, 1850, in Liber B 2, page 17 of Transfers of Patent Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

THOS. EWBANK,
Commissioner of Patents.

This Memorandum of an Agreement between Charles Goodyear, party hereto of the first part, and Jonathan Trotter, and Wm. Rider, Emory Rider, and John Rider, partners, doing business under the name and firm of W. Rider & Brothers, parties of the second part, witnesseth: That Charles Goodyear, in consideration of the stipulations herein contained on the part of the said Jonathan Trotter, and the said W. Rider & Brothers, parties hereto of the second part, doth hereby grant and convey to the said Trotter and the said Riders, the sole and exclusive right to use all his inventions or improvements made or owned by him, or in which he is interested, by patent or otherwise, made or to be made, in relation to the preparation or treatment of india rubber for manufacturing the following articles: namely, all army and navy equipments, sheet rubber of every kind, travelling and other bags (except bags with sliding mouthpiece), buckets, and pails, beds filled with water or air, pillows, life-preservers, and cushions, carriage cloths and other cloths, when the cloth is woven, but not to extend to any napped or knit cloth, or

painted carpeting, or any cloths made by mixing cotton or wool, or silk, flax, or hemp, or other fibrous substances, with india rubber in layers or otherwise, and also the sole and exclusive right to make india rubber syringes, breast-bottles, aprons of every description to be worn by persons.

And also the right, but not the exclusive right to make hose, reserving the right to said Goodyear to grant a right for one other establishment, besides the right already granted to Horace H. Day.

And it is hereby agreed and to be understood, that no license is hereby intended to be given to make mail-bags, and ship letter-bags, inasmuch as the right to manufacture them has been previously granted.

And it is further agreed and to be understood, that they are to have the right to use in the manufacture of any article provided for in this agreement, any knit or napped cloths, or any painted or other cloths made by mixing cotton, or wool, or silk, or flax, hemp, or other fibrous substances with india rubber in layers, or otherwise, which have been above excepted.

And this agreement is not to interfere with previous outstanding grants made by said Goodyear, without the consent of the grantees (where such grants have been confirmed by the Naugatuck Company).

And it is to continue during the unexpired term or terms of said patents, or any of them, or the renewals thereof.

And it is further agreed and to be understood, that all the above articles made by the grantees herein, during the term or terms aforesaid, shall be deemed and taken to be made under this agreement, and be paid for as hereinafter provided. so long as said patents, or any of them, relating to said improvements are in force, and until set aside as void by a court of the last resort having jurisdiction thereof.

In consideration whereof, the said Jonathan Trotter and said W. Rider & Brothers agree to pay said Goodyear three cents upon every square yard of merchantable cloth made under this agreement as aforesaid; and on all the india rubber manufactured for sale in sheets or otherwise, and sold at fifty cents, or under, three cents per pound; and on all india rubber manufactured for sale in sheets or otherwise, and sold as gum, at a price exceeding fifty cents per pound, a tariff of five cents per pound; and on all other articles not specified, five per cent. on the amount of sales. The accounts are to be carefully and correctly kept, showing the amount manufactured, and the amount to be paid thereon, and be rendered on the first day of January next, and quarterly thereafter; and the amount due for tariff shall be payable at the same time.

The books of the concern, so far as relates to this agreement, shall be open at all reasonable times to the inspection of said Goodyear, and others interested in this agreement.

All the goods manufactured under this agreement by said Trotter and Rider, or their assigns, are to be conspicuously stamped with the words "Goodyear's Patent." And it is further agreed, that the said Trotter and Rider shall retain fifteen per cent. of said tariff, which they agree with Seth P. Staples and William Judson to pay to them or their order, for defraying the expenses, costs, and counsel fees, which may arise in sustaining, protecting, and defending said Goodyear's patents and improvements, they having entered into arrangement with said Goodyear for that purpose, agree to apply the said fifteen per cent. for the purpose aforesaid.

Twelve and a half per cent. of said tariff to be reserved and paid to said William Judson or order, for and on account of his interest in the same; and twelve and a half per cent. more of said tariff is to be reserved and paid to the Naugatuck India Rubber Company, or to their assigns, and to be in full of all their right to the use of any of said Goodyear's said improvements or tariffs so far as comprehended in this agreement, when said Company shall have assented to the same. And it is agreed and to be understood, that this clause has reference only to the articles conveyed exclusively under this agreement. In order that said Goodyear and others interested in said tariffs may have some certain income therefrom the said Trotter and Riders agree that there shall be made under this agreement an amount of articles, including mail bags and clothing (the right to manufacture which is now owned by the parties hereto, or their associates), as well as articles made under the Naugatuck contract, equal to the work of two spreading calenders a year, allowing two months in each year for repairs and detentions; and this rule is to become applicable on the first day of January next.

And it is agreed that said Trotter & Riders will not make and sell india rubber in its raw or uncured state for others to make up, or prepare according to said Goodyear's improvements, without the written consent of said Goodyear as first had and obtained, or unless said persons have purchased a license for the same from said Goodyear.

And it is further agreed by said Trotter & Riders that they will not knowingly make and sell Goodyear's prepared gum to persons to be used in carrying out their patented inventions without said Goodyear's consent.

And it is further agreed by said Trotter & Riders that they will not assign this agreement except to the Union India Rubber Company, without the consent of said Goodyear first had and obtained in writing.

And it is further agreed that said Trotter & Riders and their assigns shall have a right to make all the articles under this agreement which the Naugatuck India Rubber Company have a right to make under their agreements with said Goodyear, or any of them, provided said Compnny assent thereto, and said Trotter & Riders or

their assigns pay a tariff on the same as is provided in this agreement.

And the said Trotter & Riders agree with said Goodyear that they will procure the assent of the said Naugatuck India Rubber Company to this agreement so far as it relates to the articles conveyed exclusively under the same, and such other articles as may be brought in from under the said Naugatuck India Rubber Company's contracts. Notarial copies of this agreement shall be furnished to each party interested therein, which shall be equally binding as the original and may be used as such. And it is further agreed that said Trotter & Rider and Brothers, or their assigns, shall not make sheet rubbers or stayed goods of sheet rubber, and sell it by the piece to be cut up and applied to the manufacture of suspenders or other articles where the right has been previously sold.

And whereas an agreement was entered into on the 18th day of July, 1844, between the said Charles Goodyear and the Naugatuck India Rubber Company, in which said Goodyear did make certain grants to the said Company, as by reference thereto will more fully and at large appear.

And it is hereby agreed, that for the purposes of defining said grants, reference thereto is to be had, and it is to be considered for that purpose so far as applicable a part and portion of this agreement.

That it shall and may be lawful for the said Naugatuck India Rubber Company to sell and assign and convey all or any part of the rights therein granted to the parties hereto of the second part, or to the Union India Rubber Company.

And it is agreed that all rights taken by Goodyear from under the contract above referred to, and not sold by said Goodyear, shall be restored back by said Goodyear to the said Company, and may be brought in under this contract.

And all articles brought under this agreement over which said Goodyear has the right of sale, shall be subject to the same conditions of sale as those under the contract made with the Naugatuck India Rubber Company, save and except in any future sales which the said Goodyear has a right to make, the parties hereto of the second part or their assigns shall be bound to decide whether they will become the purchasers at or for the price or sum offered within twenty days instead of sixty days time after such offer shall have been made as stipulated in the said contract before referred to. And in such sales so to be made by the said Goodyear, he shall be subject to pay before executing a license only one-eighth of the bonus and an order for one-eighth of the tariff that may accrue under said sale, instead of one-fourth as stipulated in said Naugatuck contract.

And it is also agreed and to be understood that all the right to manufacture articles which the parties of the second part hereto may obtain from the Naugatuck India Rubber Company under the contract before referred to, shall be subject to pay tariff as is herein

provided. All improvements and discoveries made by the grantees herein or their assigns, either in relation to the gum, composition, machinery, method or process of preparing and manufacturing india rubber, shall be the property of the said Goodyear, subject to the terms and conditions of this instrument. And for the true and faithful performance of all and singular the covenants and agreements herein contained, each party binds himself and themselves to the due and faithful performance of this agreement so far as he or they have covenanted and agreed to perform the same.

In witness whereof, the parties to these presents have hereunto interchangeably set their hands and seals this first day of July, in the year of our Lord one thousand eight hundred and forty-eight.

CHARLES GOODYEAR, [L. S.]
WILLIAM RIDER, [L. S.]
EMORY RIDER, [L. S.]
JOHN RIDER, [L. S.]
JONATHAN TROTTER, [L. S.]

Sealed and delivered in presence of—as to Charles Goodyear at Jersey City,
G. J. S. THOMPSON.

As to other parties,
ELMER GRANGER.

UNITED STATES PATENT OFFICE.

[L. S.] Received the 19th and recorded the 22d day of February, 1850, in Liber B, page 1 of Transfers of Patent Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

THOMAS EWBANK,
Commissioner of Patents.

Exd. J. J. R.

December 4th, 1848.

This Indenture, made this fourth day of December, eighteen hundred and forty-eight, by and between Jonathan Trotter, of the city of Brooklyn, county of Kings, and State of New York, and William Rider, Emory Rider, and John Rider, of the city, county, and State of New York, co-partners in business, under the firm and style of W. Rider & Brothers of the first part, and the Union India Rubber Company, established in the city and county of New York, of the second part.

This Indenture witnesseth that the parties of the first part, for and in consideration of the sum of forty-five thousand dollars, lawful money of the United States of America, to them in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, sell, assign, transfer, and set over unto the party of the

second part, their successors and assigns, all and singular the right, title, and interest of the parties of the first part, of, in and to a certain letter of license and agreement made and entered into with Charles Goodyear, bearing date the first day of July, A.D., 1848, by which said Goodyear did, in said agreement, bargain, sell, and assign unto the parties hereto of the first part, their executors, administrators, and assigns, a full, absolute, and exclusive right to use all his inventions and improvements made, or to be made, by him, or in which he is interested by patents, or otherwise made, or to be made, in relation to the preparation or treatment of india rubber for manufacturing the following articles, namely: all army and navy equipments, sheet rubber of every kind, travelling bags, and other bags (except bags with slide mouth pieces), buckets and pails, beds filled with air or water, pillows, life-preservers, cushions, carriage cloths, and other cloths where the cloth is worn (but not to extend to any napped or knit cloth, or printed carpeting, or any cloth made by mixing cotton or wool, or silk, flax, or hemp, or other fibrous substances with india rubber in layers, or otherwise).

And also the sole and exclusive right to make india rubber syringes and breast pumps, aprons of every description to be worn by persons.

And also the right (but not the exclusive right) to make hose, reserving the right to said Goodyear to grant a right for one other establishment, besides the right already granted to Horace H. Day (and it is hereby agreed and to be understood, that no license is hereby intended to be given to make mail bags and ships' letter bags), and to make such other articles specified in said agreement, as will more fully appear by reference thereto, and which said agreement is for that purpose made a part of this agreement.

Hereby giving and granting to the party of the second part full power and authority, at their risk and expense, to do all matters and things that they the said parties hereto of the first part might or could lawfully do, under and by virtue of the said letter of license in the premises had not these presents been made.

Subject, however, to the payment of all the percentage, and all moneys therein mentioned to be paid, and to the due performance of all and singular the covenants and agreements therein mentioned, which, on the part and behalf of the said parties of the first part, are to be paid, kept, done and performed, and subject also to the due performance of certain agreements made by said parties of the first part with William Judson and Seth P. Staples, and with William Judson alone, in reference to the tariffs to accrue under such license, and bearing date on the first day of July, A. D. 1848.

To have and to hold the above-granted and bargained premises, and all benefit and advantage to be derived therefrom, unto the parties of the second part, and to their successors and assigns, for and during the time the parties of the first part would be entitled to the same had not these presents been made.

And the said party of the second part does hereby covenant, promise, and agree to and with the said parties of the first part, and to and with the said Charles Goodyear, separately, and to and with the said William Judson and Seth P. Staples, jointly and separately, that the said party hereto of the second part, and their successors and assigns, will pay, perform, and comply with all the terms, conditions and stipulations, in the several agreements made between the parties of the first part, and Charles Goodyear, and between them and William Judson, and between them and William Judson and Seth P. Staples jointly, which the said parties of the first part are bound by the said several agreements hereinbefore referred to, to keep, observe, and perform, so far as the same shall be applicable to the rights so purchased; and the party of the second part, its successors or assigns, hereby agree to indemnify and save harmless the party of the first part for any loss or damage they may sustain by any default in this agreement.

And for the true and faithful performance of the agreements herein contained, each party bind themselves firmly by these presents.

In witness whereof, the parties hereto of the first part have hereunto set their hands and seals, and the party hereto of the second part hath hereto caused their common seal to be affixed, and the same to be signed by their President and countersigned by their Secretary, the day and year first above written.

JONATHAN TROTTER, [L.S.]
WILLIAM RIDER, [L.S.]
[SEAL.] EMORY RIDER, [L.S.]
JOHN RIDER, [L.S.]
JONA. TROTTER, [L.S.]
President.
F. W. G. BELLOWS, [L.S.]
Secretary.

Signed and sealed in
presence of
THOMAS CAMPION.
Witness to the above signatures,
WM. E. RIDER.

UNITED STATES PATENT OFFICE.

[SEAL.] Received the 19th, and recorded the 22d day of February, 1850, in Liber B 2, page 7 of Transfers of Patents Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

THO'S. EWBANK,
Commissioner of Patents.

Exd., J. J. R.

March 28th, 1847.

This indenture, made and entered into this twenty-eighth day of March, in the year of our Lord one thousand eight hundred and

forty-seven, by and between Charles Goodyear, of the city of New Haven, in the State of Connecticut, of the first part, and William Rider, Emory Rider, and John Rider, of the city, county and State of New York, copartners in business under the name and style of W. Rider & Brothers, of the second part, witnesseth: That whereas, the said Charles Goodyear is the patentee, under the laws of the United States, for new and useful improvements in the manner of compounding, manufacturing, and curing various fabrics, compounded of caoutchouc, or india rubber, in combination with other materials; the particulars of said improvements will more fully appear by reference being had to the copies of said patents granted to said Goodyear, and now on file at the Patent Office at Washington, D. C., particularly to the one granted, June 15th, 1844, to all of which reference is hereby made; and whereas, the said Goodyear has agreed to sell to said W. Rider & Brothers an absolute and exclusive license to use said improvement, as well as others hereinafter mentioned, in the manufacture of ships' letter and mail bags, or any other article for containing, covering or transporting mailable matter to be used in the mails and sea service of the United States.

Now, therefore, this Indenture witnesseth, that the said Charles Goodyear, in consideration of the sum of thirty thousand dollars to me in hand paid by the said Rider & Brothers, the receipt whereof is hereby acknowledged, have given and granted, and by these presents do give and grant unto the said W. Rider & Brothers aforesaid, their respective heirs, administrators, executors, and assigns, the full, absolute, and exclusive license to use all my improvement patented as aforesaid, or hereafter to be patented, now made, or that may hereafter be made by me, whether patented or not, in the manufacture of india rubber, so far as they may be used or applied in the manufacture of ships' letter and mail bags, and all other articles for and to be used in containing, and covering [for covering] the mail matter of the United States, for and during the unexpired term of all patents issued to me bearing any date whatever. And for and during the term or terms of any other patent or patents, or the renewal or amendments of any patents now owned by me, or in which I may hereafter have an interest, giving and granting unto the said W. Rider & Brothers, their respective heirs, administrators, executors, and assigns, by these presents, full power and authority to manufacture, use, and sell to others to be used, the articles aforesaid, and to do all other matters and things in my name or otherwise, as they may think necessary to be done, in order to facilitate or protect them, or either of them, in the exclusive enjoyment of all the right, granted under and by virtue of the license herein contained.

And the said Goodyear doth hereby further covenant and agree to and with the party of the second part that the manufacture under his patents for the purposes aforesaid, is free and clear of all incumbrances, except so far as any claim the Naugatuck India Rubber

Company, of Naugatuck, Connecticut, may have under and by virtue of a certain letter of license, granted to said company by him (the said Goodyear), bearing date the eighteenth of July, A. D. 1844, which incumbrance or claim said Goodyear agrees to remove without delay.

And the said W. Rider & Brothers hereby do for themselves, their respective heirs, administrators, executors, and assigns, covenant and agree to and with the said Charles Goodyear, his heirs, administrators, executors, and assigns, that an accurate account shall be kept of all the bags and other articles which they or either of them shall as aforesaid make in pursuance and by virtue of the license herein granted, showing the amount to be paid to the said Charles Goodyear truly and faithfully; said books of accounts and factories shall at all reasonable times be open to the visitation and inspection of the said Goodyear, his executors, administrators, and assigns; and that for each and every square yard of fabric made into bags or other articles for ship letter bags or mail service of the United States, they will pay unto the said Charles Goodyear, his certain attorney, executors, administrators, and assigns, semi-annually on the first day of January and July of each year a tariff equal to five cents for each and every square yard of fabric used for the purpose of making, as aforesaid, said bags and other articles; and it is further agreed by the said Goodyear, that the said W. Rider & Brothers, their heirs, executors, administrators, and assigns, shall have the right to use for all the purposes aforesaid, all and every of said Goodyear's future improvements, which he may make, or own by purchase, or otherwise, in the preparation, composition, manufacture, or curing of india rubber, so far as they may be applicable to said manufacture of mail bags or other articles for the purpose aforesaid.

And it is further stipulated and agreed by and between the parties hereto, that each and every article, made under and in pursuance of the license herein contained, shall have legibly stamped on them in some conspicuous place, "Goodyear's Patent, 1844;" and it is further stipulated and agreed, that, in case said W. Rider & Brothers shall sell, transfer, or assign, to any other person or company any portion, or all, of the rights granted to them by this instrument, they shall, in every such sale, transfer, or assignment, insert an agreement on the part of every such purchaser, that said purchasers will comply with all the terms, conditions, and stipulations, which the said Rider & Brothers are bound to perform by this instrument.

In witness whereof, the parties hereto have hereunto set their respective hands and seals, the day and year first above written.

CHARLES GOODYEAR, [L. S.]
W. RIDER & BROTHERS, [L. S.]
Per WILLIAM RIDER, [L. S.]

Signed, sealed, and delivered
in presence of
J. V. DRAYTON.

UNITED STATES PATENT OFFICE.

Received this 10th day of June, 1847, and recorded in Liber I, 1, page 467 of Transfers of Patent Rights.

[SEAL.] In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

EDMUND BURKE,
Commissioner of Patents.

(Ex. J. J. R.)

December 4th, 1848.

This Indenture, made this fourth day of December, A. D. 1848, between William Rider, Emory Rider, and John Rider, of the City, County, and State of New York, co-partners in business, under the firm and style of W. Rider & Brothers, of the first part, and The Union India Rubber Company, established in the City and County of New York, of the second part.

This Indenture witnesseth, that the parties of the first part, for and in consideration of the sum of twenty thousand dollars, lawful money of the United States of America, to them in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, have granted, bargained, and sold; and by these presents, do grant, bargain, and sell, assign, transfer, and set over, unto the party of the second part, their successors, and assigns, all and singular, the right, title, and interest, of the parties of the first part, of, in, and to, a certain letters of license, granted by Charles Goodyear to the parties of the first part, bearing date the 28th day of March, A. D. 1847, and recorded on the 10th day of June, in the same year, 1847, in the United States Patent Office, in Liber I, 1, page 467, of Transfers of Patents' Rights; by which said license or grant, the said Charles Goodyear did bargain, sell, and assign, unto the said William Rider & Brothers, parties hereto of the first part, their executors, administrators, and assigns, a full, absolute, and exclusive right, and license, to use all his improvements in the preparation of india rubber, as secured to him by patents, from the United States, so far as they relate, or may be used in the manufacture of mail bags, ships' letter bags, or any other article, for conveying mailable matter, as will more fully appear by reference to the said license, and which is for that purpose made a part of this assignment, hereby giving and granting to the party of the second part full power and authority at their risk and expense to do all matters and things, that they the said parties hereto of the first part might or could lawfully do under and by virtue of the said letters of license in the premises, had the se presents never been made.

Subject, however, to the payment of all the percentage, and all monies therein mentioned to be paid, and to the due performance of all and singular, the covenants and agreements therein mentioned, which on the part and behalf of the said William Rider & Brothers

are to be paid, kept, done and performed, and subject also to the due performance of certain agreements made by the said William Rider & Brothers, with William Judson and Seth P. Staples, and with William Judson alone in reference to the Tariffs, to accrue under such license, and bearing date on the first day of July, A.D. 1848.

To have and to hold, the above granted and bargained premises, and all benefit and advantage to be derived therefrom, unto the parties of the second part, and to their successors and assigns, for and during the time the parties of the first part would be entitled to the same, had not these presents been made.

And the said party of the second part does hereby covenant, promise, and agree to and with the said William Rider & Brothers, that the said party hereto of the second part, and their successors and assigns, will pay, perform and comply with all the terms, conditions, and stipulations in the several agreements heretofore made between the said parties of the first part, and the said Charles Goodyear, and between them and the said William Judson, and also between them and William Judson and Seth P. Staples jointly, which the said William Rider & Brothers are bound by the said several agreements hereinbefore referred to, to observe and perform, so far as the same shall be applicable to the rights so purchased, and the said party of the second part hereby agree to indemnify and save harmless the said parties of the first part on account of any loss or damage, by reason of any fault in this agreement.

And for the true and faithful performance of the agreements herein contained, each party binds himself and itself to the others. In witness whereof, the parties hereto of the first part have hereunto set their hands and seals, and the party hereto of the second part, hath hereto caused their common seal to be affixed, and the same to be signed by their President, and countersigned by their Secretary, the day and year first above written.

WILLIAM RIDER, [L. S.]
EMORY RIDER, [L. S.]
JOHN RIDER. [L. S.]

[SEAL.] JONA. TROTTER, [L. S.]
President.

F. W. G. BELLOWS, [L. S.]
Secretary U. I. R. Co.

Sealed and delivered in the presence of

THOMAS CAMPION.
WM. E. RIDER.

UNITED STATES PATENT OFFICE.

Received the 19th, and recorded the 22d day of February, 1850, in Liber B 2, page 14, of transfers
[L. S.] of Patent Rights. In testimony whereof I have

caused the seal of the Patent Office to be hereunto affixed.

THOS. EWBANKS,
Commissioner of Patents.

(Exd. J. J. R.)

February 5th, 1847.

This Indenture, made this 5th day of February, in the year of our Lord one thousand eight hundred and forty-seven, by and between Charles Goodyear, of the city of New Haven, in the State of Connecticut, of the first part, and Jonathan Trotter, of the city of Brooklyn, and State of New York, of the second part, witnesseth: That the said Charles Goodyear, party of the first part, for and in consideration of the sum of ten thousand dollars to him in hand paid, the receipt of which is hereby acknowledged, and in consideration of the stipulations and conditions hereinafter provided, hath bargained, and sold, and assigned, and by these presents doth bargain, sell, and assign unto the said Jonathan Trotter, party of the second part, his executors, administrators, and assigns, a full, absolute, and exclusive right and license to use any and all the machinery, compositions, and methods of manufacturing and preparing india rubber, so far as they are now or may hereafter be used in manufacturing wearing apparel, of every name, kind, or description whatever for men and boys (excepting boots and shoes, bathing caps, and gloves, and mittens), which the said party of the first part now has or may hereafter have by virtue of any patent or patents, or otherwise, for and during the unexpired term or terms of any such patent or patents, or renewal or renewals thereof, which are or may be owned by him, or in which he may have an interest, or of which he may become possessed, and in all the machinery, compositions, and methods of manufacturing and preparing india rubber which have been or may hereafter be invented or purchased by the said party of the first part, and to the same extent that the said party of the first part may be interested therein, so far as the same relates to wearing apparel as above mentioned, whether they have been or shall be patented or not, to have and to enjoy the said patents, and their renewals, and the said machinery, compositions, and methods of manufacturing and preparing india rubber as above mentioned, to the said party of the second part, and to his executors, administrators, and assigns exclusively, for the purpose of manufacturing, using, and vending the articles aforesaid, or for assigning or transferring licenses to use such machinery, compositions, methods, and improvements to others for the purposes aforesaid, as fully and to the same extent that the party of the first part now has or may ever hereafter have, subject to the payment of the percentage hereinafter named.

And the said Charles Goodyear doth hereby for himself, his heirs, executors, administrators, and assigns, covenant and agree to with the said Jonathan Trotter not to make, use, or vend, or to grant to

any other person or company whatever any other license, to make, use, or vend said preparations or improvements in the preparation of india rubber so far as the same are now used, or may hereafter be used, in manufacturing wearing apparel as aforesaid.

And the said Charles Goodyear for himself, his executors, administrators, and assigns hereby further covenants and agrees with the said Jonathan Trotter that he will, at all times, and to the best of his abilities, aid and assist the said Jonathan Trotter in the carrying on of the said manufacture of india rubber goods by furnishing to him any information which he, the said Goodyear, now possesses, or may hereafter possess or acquire, which may enable him to carry on, improve, and extend the said manufacture.

And that the said Goodyear, his heirs, executors, administrators, and assigns will at his and their expense and cost, prosecute with all reasonable despatch and carry on to final judgment a sufficient number of suits against violations of the aforesaid patents, or any other patents, of said Goodyear relating to this composition or machinery, either so as to defend and protect the said Jonathan Trotter in the full enjoyment of all his privileges, or until it shall appear to disinterested judges in the law, that said patents cannot be defended by law; and the said Jonathan Trotter, party of the second part for himself, his executors, administrators, and assigns, doth hereby covenant, promise, and agree to and with the said Charles Goodyear, party of the first part, his executors, administrators, and assigns, that, in consideration of the premises, he will pay to the party of the first, his executors, administrators, agents, or assigns, seven-eighths of five cents for each and every square yard of india rubber fabric so prepared, as aforesaid, proper allowance being made for the trimming and shrinking of the same, which he, his executors, administrators, or assigns shall make or cause to be made into the articles aforesaid, or any of them, which payment shall be made on the first days of January and July in each and every year during the continuance of said patent or patents, or the renewal or renewals of them, or either of them. It is agreed and understood that the said party of the first part, shall not infringe himself upon the rights hereby granted exclusively to the party of the second part; and shall defend them from infringement by others by bringing and prosecuting said in the manner above-mentioned.

And the said party of the second part further covenants, promises and agrees, for himself, his executors, administrators and assigns, to and with the said party of the first part, that all the articles made as aforesaid by him or them shall be deemed to be made under the patents and improvements of the said Charles Goodyear, party of the first part; and that he and they shall and will observe, in all things, the requirement of the United States Patent Law as it applies to the article manufactured by them under said patents and improvements.

And the said Jonathan Trotter further covenants and agrees with the said Charles Goodyear, his executors, administrators and assigns, that he, the said Jonathan Trotter, will legibly stamp with the words "Goodyear's Patent," each and every of the aforesaid articles and pieces of india rubber goods manufactured by him when the size and circumstance thereof will admit the same to be conveniently done.

And also, that he, the said Jonathan Trotter, will keep true and correct accounts and books, showing the kind and amount of all the goods, merchandise and articles so as aforesaid manufactured by him, and showing the amount to be paid to said Goodyear truly and fully, which accounts and books shall at all reasonable times be open to the inspection of said Goodyear or his executors, administrators and assigns, for the purpose aforesaid.

And also that all improvements and discoveries made by him, the said Jonathan Trotter, as well as by the said Goodyear, his heirs, executors, administrators and assigns, either in relation to the gum, composition, machinery, method or process of preparing and manufacturing said india rubber goods shall be the property of said Goodyear, his executors, administrators or assigns, and shall be patented by him or them at his or their cost (if deemed advisable to be patented), and shall be subject to all the terms, conditions, and stipulations of this instrument.

And the said Jonathan Trotter shall have the same right, powers, and privileges in and respecting the same as he has to the invention, preparations and improvements, which are the subject-matter of this instrument.

And also that in case said Jonathan Trotter shall sell, assign, or transfer to any person or company, any portion or all of the rights granted to him by said Goodyear by this instrument, he shall, in every such sale, transfer, or assignment, insert an agreement on the part of every such purchaser, that such purchasers will comply with all the terms, conditions, and stipulations which the said Jonathan Trotter is bound by this instrument to observe and perform, as far as the same shall be applicable to the rights so purchased, or such sales, transfer, or assignment, shall be void.

But the said Jonathan Trotter shall not be held responsible for the fulfilment on the part of any such purchaser or any such stipulation or agreements.

It is further understood and agreed between the parties, that the party of the first part is not to grant licenses for unfinished or unbaked fabrics to be put into the market so as to allow them to be made into wearing apparel as aforesaid; but it is not expected that the party of the first part will prosecute individuals who may make sewed garments out of finished fabrics, unless the same shall be done as a manufacture to such extent as materially to interfere with the rights herein granted.

In witness whereof, the parties hereto have hereunto set their hands and seals, this day and year hereinbefore mentioned.

CHARLES GOODYEAR, [L. S.]
JONATHAN TROTTER, [L. S.]

Witness: CHAS. J. GILBERT.

United States Patent Office. Received this 12th day of February, 1847, and recorded in Liber G 1, page 374 of Transfers of Patent Rights.

[L. S.] In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

EDMUND BURKE,
Commissioner of Patents.

Exd. J. J. R.

Dec. 4th, 1848.

This Indenture, made this fourth day of December, eighteen hundred and forty-eight, between Jonathan Trotter, of the city of Brooklyn, in the county of Kings, and State of New York, of the first part, and the Union India Rubber Company, established in the city of New York and the county of New York, of the second part.

This indenture witnesseth: that the party of the first part for and in consideration of the sum of twenty-five thousand dollars, lawful money of the United States of America, to him in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain, and sell, assign, transfer, and set over unto the party of the second part, their successors, and assigns, all and singular, the right, title, and interest of the party of the first part, of in and to a certain letter of license granted by Charles Goodyear to the party of the first part, bearing date the fifth day of February, A. D. eighteen hundred and forty-seven, and recorded on the twelfth day of February, in the said year 1847, in the United States Patent Office, in Liber G 1, page 374 of Transfers of Patent Rights, by which said license or grant the said Charles Goodyear did bargain, sell, and assign unto the said Jonathan Trotter, party hereto of the first part, his executors, administrators, and assigns, a full, absolute, and exclusive right and license to use all his improvements in the preparation of india rubber, as secured to him by patent from the United States, so far as they relate or may be used in the manufacture of wearing apparel of all kinds, except such as in the said letters of license are excepted, as will more fully appear by reference to said license, and which is for that purpose made a part of this assignment.

Hereby giving and granting to the party of the second part full power and authority at their risk and expense to do all matters and things that he the said party hereto of the first part might or could lawfully do under and by virtue of the said letters of license in the premises, had these presents never been made.

Subject, however, to the payment of all the percentage, and all moneys therein mentioned to be paid, and to the due performance of all and singular the covenants and agreements therein mentioned which on the part and behalf of the said Jonathan Trotter, are to be paid and kept, done and performed, and which the said party of the second part hereby assume and agree to perform and pay.

And subject, also, to the due performance of certain agreements made by the said Jonathan Trotter, with William Judson and Seth P. Staples, and with William Judson alone, in reference to the tariff to accrue under such license, and bearing date on the first day of July, A. D. eighteen hundred and forty-eight, and which the said party of the second part hereby assumes to perform and keep.

To have and to hold the above-granted and bargained premises, and all benefits and advantages to be derived therefrom unto the parties of the second part, and to their successors and assigns for and during the time the party of the first part would be entitled to the same, had not these presents been made.

And the said party hereto of the second part, do hereby covenant, promise, and agree to and with the said Jonathan Trotter, that the said party hereto of the second part, and their successors and assigns, will pay, perform, and comply with all the terms, conditions, and stipulations in the several agreements of the said party of the first part with the said Charles Goodyear, and with William Judson and Seth P. Staples, jointly, and with William Judson alone, which the said Jonathan Trotter is bound by the said several agreements hereinbefore mentioned to observe and perform, so far as the same shall be applicable to the rights so purchased, and the said party of the second part, its successors or assigns, hereby agree to hold the said party of the first part harmless, and to indemnify him of and from any loss or damage, which he may suffer by any default in this agreement.

And for the true and faithful performance of the agreements herein contained, each party binds himself and itself to the other.

In witness whereof, the party hereto of the first part, hath hereunto set his hand and seal, and the party hereto of the second part, hath hereto caused their common seal to be affixed, and the same to be signed by the treasurer, and countersigned by their secretary, the day and year first above mentioned.

JONATHAN TROTTER, [L. S.]
WILLIAM RIDER,
[L. S.] Treasurer of the Union India Rubber Company.
F. W. G. BELLOWS,
Sec. Union India Rubber Company.

Sealed and delivered in
the presence of
WM. E. RIDER,
THOMAS E. CAMPION.

United States Patent Office. Received the 19th, and recorded the 22d day of February, 1850, Liber B 2, page [L. S.] 11, of Transfers of Patent Rights. In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed.

THOS. EWBANK,
Commissioner of Patents.

Exd. J. J. R.

The counsel for the said defendants then read in evidence, subject to every objection which might be taken thereto, by the said complainant, the following contract, which objections were reserved by the Court, and to the decision admitting the said contract in evidence, the counsel for the said complainant then and there, in due time, manner, and form excepted.

July 1st, 1848.

WILLIAM RIDER,
EMORY RIDER,
JOHN RIDER,
WILLIAM JUDSON.

Whereas, Charles Goodyear and William Rider & Brothers have entered into an agreement (a copy of which is hereunto annexed) in which said Riders have agreed to pay said Goodyear five cents for every square yard of india rubber fabric made into bags or other articles for ship letter-bags or mail service of the United States.

And whereas said Goodyear has agreed that fifteen per cent. of said five cents per square yard shall be paid to Seth P. Staples and William Judson, to be by them used for sustaining, defending, and protecting the improvements and patents named in said agreement, in pursuance of a contract entered into between said Goodyear and said Staples and Judson: now, in consideration of the premises and of one dollar to us in hand paid by said Staples and Judson, we hereby, for ourselves and our assigns, covenant and agree with them, that we will pay to them said sum of fifteen per cent. on the amount of said tariff of said five cents per square yard, on the first days of January and July, named in said agreement, and keep and render our accounts, showing to them the amount, and open to their inspection at all reasonable times; and all india rubber manufactured by us, or under us, shall be taken and deemed to be manufactured or used under said agreement and according to the terms thereof.

And said Staples and Judson being the attorneys, counsellors, and agents of said Goodyear, having the right to commence and prosecute to final judgment and execution, any suit or suits in law or equity in the name of said Goodyear, and for the protection of said patents, hereby agree with said Riders, and promise to use the said

authority and powers accordingly. As witness our hands and seals, this first day of July, 1848.

WILLIAM RIDER, [L. S.]
EMORY RIDER, [L. S.]
JOHN RIDER, [L. S.]
WILLIAM JUDSON, [L. S.]

The above agreement is made with my knowledge and assent, as witness my hand this day of 1848.

(On the 27th of September, 1855, the plaintiff's solicitor gave the following stipulation as to the foregoing nine papers:

"The within named papers may be read in evidence in the case of H. H. Day, against the Union India Rubber Company, in Equity, C. C. U. S. S. D. N. Y., without calling the subscribing witnesses, nsbject to objections as to their materiality or relevancy.

"S. BLATCHFORD,
"Solicitor for Plaintiff.)

On the copy of the conveyance, dated July 28, 1844, from Fisher and Simmons to Goodyear, was the following stipulation:

"This record may be read in evidence with like effect as the original conveyance, subject to all legal objections which might be made to the original conveyance if offered in evidence.

"S. BLATCHFORD,
"Solicitor for Plaintiff."

On the record containing the conveyance from Andrews & Savage, trustees, to Loring & Simmons, dated March 15, 1841, and the conveyance from Loring & Simmons to Fisher & Simmons, dated September, 1841, was indorsed the following stipulation:

"This record may be read in evidence with the like effect as if the original therein named were produced and read in evidence, subject to all legal objections the same as might be made to the originals if produced and read in evidence.

"S. BLATCHFORD."

The President of the United States, to Robert B. Campbell, Esq.:

Know ye, That we, with full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you to examine Adolphus Stone, of Harlem, and Doct. C. W. Stearns, of the City of New York, and Nelson C. Newell, of Long Meadow, in the State of Massachusetts, as witness in a cause pending in the Circuit Court of the United States for the Southern District of New York, in Equity, wherein Horace H. Day is complainant, and the Union Rubber Company are defendants, on the part of the defendants, on oath, upon the interrogatories annexed to this commission,

to take and certify the deposition of the witness, and return the same according to the directions hereunto annexed.

Witness, J. B. Staples, solicitor for the defendants, the 27th day of September, one thousand eight hundred and fifty-five.

Issued under a stipulation by the solicitors of the parties.

The execution of this commission appears in certain schedules hereto annexed.

ROBT. B. CAMPBELL,
Notary Public, Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

It is hereby stipulated, that the commissions which are already or may be hereafter issued in this cause, may be issued by either party without the seal of the Court or the signature of the clerk, but with the same effect as if such commission bore the same: and be directed to and taken by any disinterested United States commissioner, or any judge of any Court, or any justice of the peace, or any commissioner authorized to administer oaths, who shall be first designated to and approved by the adverse party; that such commissions may be delivered by the party issuing them, to the commissioners; that such commissioners shall execute the same strictly in accordance with the rules and practice of this Court; that neither party shall attend the examination of witnesses, in person or by agent, attorney or counsel; that such commission, when taken out of the City of New York, shall be returned by mail to the clerk of this Court, and when taken in the city, shall be delivered to the said clerk by the commissioner; that publication of such commissions shall pass immediately on their return to the clerk's office, and that either party may, without further notice to that effect, enter an order to that effect, and that the plaintiff may have copies of the said commissions and examinations for the purpose of printing the same; and that he shall furnish the defendants with printed copies, on their paying their proportionate share of the expenses of printing the same.

(Signed) S. BLATCHFORD,
Solicitor for Plaintiff.

Dated Sept. 17th, 1855.

Robert B. Campbell is proposed by complainant as a suitable person to execute this commission, and I do not object.

J. B. STAPLES,
Solicitor for Defendant.

Sept. 27, 1855. By S. P. S.

The counsel for the said defendant then read in evidence, subject to the objections by the complainant taken in the cross-interrogatories to the witness, the deposition of C. W. Stearns, as follows; and to the decision admitting the same in evidence, the counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to be put to Dr. C. W. Stearns, of the City of New York, a witness to be examined on the part of the defendants in said cause.

1. What is your name, where do you reside, and what is your occupation?

2. Do you know Edwin M. Chaffee, and if so, how long have you been acquainted with him?—is he or is he not a mechanic, and if so, in what branch of that business has he been engaged for years past?

3. Have you any recollection of seeing said Edwin M. Chaffee at any time at the factory of the Union India Rubber Company, and was you there with him at any time?

4. If you answer in the affirmative, please state when it was, what said Chaffee was doing at said factory, or what was his business there, how long he was there at that time, and whether he made any experiments in the manufacture of india rubber, and for whom, and whether the works were, or not, in operation while said Chaffee was there in the factory at work, and how long you was there at the same time with said Chaffee, and whether Adolphus Stone was then at work in said factory as one of the hands?

5. Did you while at said factory, or at any time, ever hear said Chaffee say that said company were illegally or in any way improperly using his patented improvements for the preparation of india rubber for manufacturing purposes, or forbid the use of the same by said company?

6. Do you know any other matter or thing important to the issues between the parties in said cause?—if so, please state the same.

By J. B. STAPLES,
Solicitor for Defendant.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Cross-interrogatories to C. W. Stearns, a witness for the defendants.

The complainant objects to the 3d, 4th, and 5th interrogatories, because they are leading and because they are immaterial.

1. Are you acquainted with the india rubber business, and with Chaffee's invention and machinery?

2. If you answer the last interrogative in the affirmative, please state what the saving of the Chaffee process and machinery is, and particularly wherein it makes a saving, and how many Chaffee machines defendants had in their factory at each time you have known the number, if at any time.

3. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause?—if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.

Deposition of Charles W. Stearns, produced, sworn and examined the twenty-eighth day of September, in the year one thousand eight hundred and fifty-five, at the city of New York, under and by virtue of the commission hereto annexed, issued in an action pending in the Circuit Court of the United States for the Southern District of New York, in Equity, wherein Horace H. Day is complainant, and The Union India Rubber Company is defendant, on the part of the defendant.

Charles W. Stearns, of the city of New York, aged twenty-one years and upwards, being duly and publicly sworn, pursuant to directions hereto annexed, and examined on the part of the defendant, doth depose and say as follows:

1st. My name is Charles W. Stearns; I reside at present in the city of New York; by profession I am a physician; I am at present engaged in manufacturing water cocks, in which india rubber is used.

2d. I have met Edwin M. Chaffee and have seen him; my acquaintance with him lasted only a few days—a week, or thereabouts, when we were boarding at the same hotel—Bradshaw's Hotel, at Harlem; since then I have not seen him; that was in the latter part of the winter of eighteen hundred and forty-nine and fifty. I do not know whether he is a mechanic or not, nor what business he has been engaged in.

3d. I saw Edwin M. Chaffee at the factory of the Union India Rubber Company several times, while he was boarding at Bradshaw's Hotel. I was engaged in matters of my own at the factory while he was in the building, but we were not engaged upon the same work.

4th. This I think was in the early part of the year one thousand eight hundred and fifty, a little past the middle of winter. I under-

stood Chaffee to say that he came there to show The Union India Rubber Company or the Riders, something about spreading india rubber on cotton bats, so as to give it a smooth finish or polished surface.

He was there at that time a few days—a week or ten days I should think.

I do not know of any experiments that he made in the manufacture of india rubber while he was there.

The works were in operation while Chaffee was there in the factory at work.

Chaffee was there about a week; I was there most of the time from the latter part of November, in the year one thousand eight hundred and forty-nine to the middle of March, one thousand eight hundred and fifty.

Adolphus Stone was at work in the said factory as one of the hands.

5th. I have no recollection of ever hearing him speak on the subject.

6th. I do not recollect any other matter or thing important to the issues between the parties in this cause.

Cross-interrogatories:—1st. I have a general knowledge of the india rubber business, and also with Chaffee's invention and machinery.

2d. I do not know how much in value the saving by the Chaffee process and machinery is, but it is effected by dispensing with the use of the solvent to soften the natural gum preparatory to working it. It makes a saving in time and in the quality of the material after it is softened. There was one large machine on the Chaffee plan, and there were two smaller ones which I am quite confident were on that plan, though I never examined these small ones particularly. I refer to the time between November and March, of which I have spoken above.

3d. I do not recollect any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination, or the matters in question in this cause.

CHARLES W. STEARNS.

Examination taken, reduced to writing, subscribed by the witness, and sworn to by the witness, this twenty-eighth day of September, 1855.

ROB'T. B. CAMPBELL, [L. S.]
Commissioner.

The counsel for the said defendant then read in evidence, subject to the objections taken by the said complainant in the cross-interrogatories to the said witness, the deposition of Adolphus Stone, as follows; and to the decision admitting the same in evidence, the

counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to Adolphus Stone, of Harlem, in the State of New York, a witness for the defendants in the above entitled cause.

1. What is your name, place of residence, and employment or business, and if in the employment of any one, please state in whose employment you now are?

2. If you say you are in the employment of the Union India Rubber Company, please state what is the business you do, and what work you perform for said company, and how long you have been engaged in the Company's business?

3. Do you know anything of the application for the extension of Edwin M. Chaffee's patent, of 31st of August, 1836, and was you called on to testify in relation to said application? If you answer in the affirmative, please state whether you came into the City of New York, and was examined as a witness on behalf of said Chaffee to prove that he was the inventor of the improvements claimed in said patent. Please state also, who requested you to go from Harlem to the office in the city where you was examined and gave your testimony, and who paid your expenses, and who was it of said Union India Rubber Company spoke to you about giving your testimony, and if it was Jonathan T. Trotter, was he then a clerk of said company, or in their service? or how otherwise?

4. When did you come into the employment of said Union India Rubber Company? Please state the year and month, and whether said Company were or were not then using said Chaffee's patented improvements for the preparation of india rubber for manufacturing purposes; and if you answer that said Company were then using said improvements, state whether they have or have not continued the use of the same to the present time?

5. Do you know Edwin M. Chaffee? If you answer in the affirmative, please state whether you are or are not well acquainted with him.

6. Have you any recollection that E. M. Chaffee was at any time at factory of the Union India Rubber Company, of Harlem, and what he came there for, and what his business was there, and whether Dr. C. W. Stearns was there at the same time?

7. If you answer the 6th interrogatory in the affirmative, please

state, whether it was or was not after the extension of said Chaffee's patent, and whether it was or not in the winter of 1850–'51, or in the forepart of eighteen hundred fifty-one, and whether Dr. C. W. Stearns was there at the same time. Please state how long said Chaffee was there at that time, and what he was doing in the factory while there, if he did anything in the factory, and for whom, whether for himself or some one else, or how otherwise?

8. Did said Chaffee see or know that his patented improvements for the preparation of india rubber were then in use in said factory, and if he did, were any complaints made by him within your hearing, or to your knowledge, that said company were unlawfully using his said improvements, or did he forbid the use of the same by said company, or forbid any one then in the company from using the same, or forbid you or any one else to your knowledge or belief from using the same?

9. Did or did not said Chaffee's business at the factory lead him to see and know how india rubber was prepared for use, and did he or not see his own machinery at work, and use some of the gum or india rubber, so prepared, in the experiments he was making, and work he was doing?

10. If there is any other matter or thing connected with these inquiries, and material to the issues in the above cause, please state the same?

By J. B. STAPLES,
Solicitor for the Defendant.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
UNION INDIA RUBBER COMPANY. } In Equity.

Cross-Interrogatories to Adolphus Stone, a witness for the defendants in the above entitled cause.

The complainant objects to the 3d, 6th, 7th, 8th, 9th, because they are leading and immaterial.

1. Cross-Interrogatory: How many Chaffee machines were in the Union Company's (defendant's) factory, on Aug. 31st, 1850, and how many, if any, have been put in since? State particularly.

2. What is the saving, if any, by the Chaffee process over the old solvent process? State particularly, if you know.

3. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.

Deposition of Adolphus Stone, a witness produced, sworn and examined the first day of October, in the year one thousand eight hundred and fifty-five, at the City of New York, under and by virtue of the commission hereto annexed, in an action pending in the Circuit Court of the United States, for the Southern District of New York, in equity, wherein Horace H. Day is complainant, and the Union India Rubber Company is defendant, on the part of the defendant.

Adolphus Stone, of Harlem, in the city of New York, aged twenty-one years and upwards, being duly and publicly sworn pursuant to the directions hereto annexed, doth depose and say as follows, viz.:

1st. My name is Adolphus Stone; my place of residence is Harlem, in the city of New York; I am a foreman in the employ of the Union India Rubber Company, in their factory at Harlem.

2d. I am foreman in a room where clothing is manufactured; vulcanized goods are made in my room; I have been engaged in the business of the company since February, 1849.

3d. I was called on at the time he had his patent extended; I believe it was in August, eighteen hundred and fifty, to testify; I did come into the city of New York, and was examined as a witness on behalf of said Chaffee, to prove that he was the inventor of the improvements claimed in said patent. Jonathan T. Trotter requested me to go from Harlem to the office in the city, where I was examined, and gave my testimony, and he paid my fare to the city and back. He spoke to me about giving my testimony. I think that at that time he was superintendent of the Union India Rubber Company.

4th. I went into the employment of the Union India Rubber Company, in February, eighteen hundred and forty-nine. The company were then using Chaffee's patented improvement for the preparation of india rubber, and they have continued the use of the same to the present time.

5th. I know Edwin M. Chaffee, but I am not intimately acquainted with him.

6th. I recollect that Edwin M. Chaffee was at the factory of the Union India Rubber Company, at Harlem, in the winter of 1850 and 1851; I do not recollect whether it was in 1850, or in 1851, but it was during that winter. He came there to make some experiments on cloths, to give them a lustre; Dr. C. W. Stearns was there at the same time.

7th. I think that this was after the extension of Chaffee's patent, and it was in the winter of 1850 and 1851, and Dr. C. W. Stearns was there at the same time Chaffee was at the factory, about a week more or less; I cannot say definitely; I do not know of his doing anything in the factory, except experimenting on cloths; I do not know for whom he was doing this.

8th. Chaffee did know that his patented improvements for the preparation of india rubber were then in use in the factory; no com-

plaints were made by him within my hearing, or to my knowledge that said company were unlawfully using his improvements; and I do not know that he forbid the use of the same by the said company, or any one in the company, or me, or any one else.

9th. His business at the factory did lead him to see and know how the india rubber was prepared there for use, and he did see his own machinery at work, and used some of the india rubber so prepared in the experiments he was making.

10th. I do not recollect any other matter or thing connected with these inquiries, or material to the issues in the cause.

ADOLPHUS STONE.

Cross-Interrogatories:—1st. There are now in the Union India Rubber Company's factory two sets of Chaffee's calenders, and three sets of his grinders, and one warming calender; I do not recollect as to August 31st, 1850, but I think they were the same then as now.

2d. The saving by the Chaffee process over the old solvent process is a saving of the cost of the camphine used to dissolve the gum.

3d. I do not recollect any other matter or thing that may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination or the matters in question in this cause.

ADOLPHUS STONE.

Examination taken, reduced to writing, subscribed by the witness, and sworn to by the witness, this first day of October, 1855.

ROBERT B. CAMPBELL,
Notary Public, Commissioner.

The counsel for the said defendants then read in evidence, subject to the objections taken by the said complainants in the cross-interrogatories to the said witness, the deposition of Nelson C. Newell as follows; and to the decision admitting the same in evidence the counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to be put to Nelson C. Newell, of Long Meadow, in the State of Massachusetts, a witness to be sworn and examined on the part of the defendants in the above cause:

1. What is your name and age, and where do you belong, and what is your occupation?

2. Are you acquainted with both or either of the parties in the above cause?

3. Are you acquainted with Edwin M. Chaffee, now of Providence, in the State of Rhode Island? and if so, how long have you been acquainted with him, and all you or any of your family connected with, or related to said Chaffee, or any of his family, by marriage or otherwise?

4. Do you know anything of a certain patent granted to said Chaffee, on the 31st of August, 1836, and extended for a second term on the 31st of August, 1850, for improvements in the preparation of india rubber for manufacturing purposes, either by conversation with said Chaffee or otherwise?

5. If you answer this last interrogatory in the affirmative, please state whether you have ever had any conversation or conversations with said Chaffee relative to the extension of said patent, at whose expense said extension was procured, and for whose use and benefit said extension was procured, if for any other person or persons other than said Chaffee, and how, and in what manner said Chaffee was to be compensated for his interest in said patent, and by whom?

6. If you answer in the affirmative, and that you have had conversations with said Chaffee on the subject referred to, please state particularly what he said to you concerning the application made for the extension of said patent, and what he said to you as to who were to sustain and pay the expense, or expenses, of the application and extension of said patent, and what said Chaffee said to you as to the person or persons to be benefited by the extension of said patent, and to have the use thereof; and how and by whom said Chaffee was to be compensated for his interest in said patent after extended; and please state, when and where said conversations took place, if they took place anywhere, and any time, and whether before or after the extension of said patent, or whether both before and after said extension? Please state particularly, as you recollect the times and places of such conversations, if any such you had, with said Chaffee.

7. Do you know any other matter or thing material to the matters in issue in said cause? If yea, please state the same.

By J. B. STAPLES,
Solicitor.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER CO. } In Equity.

Cross-interrogatories to Nelson C. Newell, a witness for defendants.

The complainant objects to the 5th interrogatory because it is leading.

plaints were made by him within my hearing, or to my knowledge that said company were unlawfully using his improvements; and I do not know that he forbid the use of the same by the said company, or any one in the company, or me, or any one else.

9th. His business at the factory did lead him to see and know how the india rubber was prepared there for use, and he did see his own machinery at work, and used some of the india rubber so prepared in the experiments he was making.

10th. I do not recollect any other matter or thing connected with these inquiries, or material to the issues in the cause.

ADOLPHUS STONE.

Cross-Interrogatories:—1st. There are now in the Union India Rubber Company's factory two sets of Chaffee's calenders, and three sets of his grinders, and one warming calender; I do not recollect as to August 31st, 1850, but I think they were the same then as now.

2d. The saving by the Chaffee process over the old solvent process is a saving of the cost of the camphine used to dissolve the gum.

3d. I do not recollect any other matter or thing that may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this examination or the matters in question in this cause.

ADOLPHUS STONE.

Examination taken, reduced to writing, subscribed by the witness, and sworn to by the witness, this first day of October, 1855.

ROBERT B. CAMPBELL,
Notary Public, Commissioner.

The counsel for the said defendants then read in evidence, subject to the objections taken by the said complainants in the cross-interrogatories to the said witness, the deposition of Nelson C. Newell as follows; and to the decision admitting the same in evidence the counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to be put to Nelson C. Newell, of Long Meadow, in the State of Massachusetts, a witness to be sworn and examined on the part of the defendants in the above cause:

1. What is your name and age, and where do you belong, and what is your occupation?

2. Are you acquainted with both or either of the parties in the above cause?

3. Are you acquainted with Edwin M. Chaffee, now of Providence, in the State of Rhode Island? and if so, how long have you been acquainted with him, and all you or any of your family connected with, or related to said Chaffee, or any of his family, by marriage or otherwise?

4. Do you know anything of a certain patent granted to said Chaffee, on the 31st of August, 1836, and extended for a second term on the 31st of August, 1850, for improvements in the preparation of india rubber for manufacturing purposes, either by conversation with said Chaffee or otherwise?

5. If you answer this last interrogatory in the affirmative, please state whether you have ever had any conversation or conversations with said Chaffee relative to the extension of said patent, at whose expense said extension was procured, and for whose use and benefit said extension was procured, if for any other person or persons other than said Chaffee, and how, and in what manner said Chaffee was to be compensated for his interest in said patent, and by whom?

6. If you answer in the affirmative, and that you have had conversations with said Chaffee on the subject referred to, please state particularly what he said to you concerning the application made for the extension of said patent, and what he said to you as to who were to sustain and pay the expense, or expenses, of the application and extension of said patent, and what said Chaffee said to you as to the person or persons to be benefited by the extension of said patent, and to have the use thereof; and how and by whom said Chaffee was to be compensated for his interest in said patent after extended; and please state, when and where said conversations took place, if they took place anywhere, and any time, and whether before or after the extension of said patent, or whether both before and after said extension? Please state particularly, as you recollect the times and places of such conversations, if any such you had, with said Chaffee.

7. Do you know any other matter or thing material to the matters in issue in said cause? If yea, please state the same.

By J. B. STAPLES,
Solicitor.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER CO. } In Equity.

Cross-interrogatories to Nelson C. Newell, a witness for defendants.

The complainant objects to the 5th interrogatory because it is leading.

The complainant also objects to the 6th interrogatory because it is leading.

1. Cross-Interrogatory.—If you say you had any conversation with said Chaffee in reference to the extension of his india rubber patent, state when it was, and if more than one, when, and where each took place, who was present, what led to the conversation, what was said to him, and by whom, and what he said? State particularly, and state especially, whether it was before or after the extension, if before, how long before, if after, how long after?

2. If you have stated that you had a conversation with Chaffee prior to the extension, was it before or after the 23d day of May, 1850?

3. If you have said you had a conversation with Chaffee before the extension, in reference to his patent and the extension thereof, and who was to pay the expenses, and who was to be the owner thereof after the extension, did he not tell you that he had agreed to sell the extended patent if extended to Charles Goodyear, and that Goodyear was to pay the expenses of the extension, and pay him three thousand dollars or some other sum, and give him an interest in the globe and carpet business, or words to that effect, or some part of it, or substantially that?

4. Did he not say that he did not wish to state the precise terms of the contract;

5. Did you know of, or ever see a paper, a copy of which is annexed and marked "A," purporting to be made between Chaffee and Goodyear, the 23d May, 1850, and did you not know or hear that such was the contract between Chaffee and Goodyear about the extension, or to that effect; and did you know or hear of any other contract than that before the extension, and if so, when and where, and in what did it differ; when and where and by whom was it made; was it in writing, and if so, will you produce a copy of it, if in your control; if not, state who has or had its custody?

6. If you say that Chaffee had a conversation with you after the extension of said patent, state when and where it was, who was present, what led to the conversation, what was said to Chaffee, and by whom; what Chaffee said, and particularly whether it was before or after the 5th of September, 1850, and whether it was before or after the 12th of November, 1851?

7. If you have spoken of a conversation between you and Chaffee, or by him in your presence and hearing, after the extension, did he not say he had made some contract with Wm. Judson about the patent, or the extended patent; did he not say it was in writing, and did he state the contents of the writing; did he say anything about Goodyear, and did he state any different contract than that contained in the written contract or contracts?

8. Were you at any time, or are you now in any way connected with the Goodyear licensees; do you hold any stock in any of their

companies, or have you at any time; have you seen and talked with Seth P. Staples, Esq., or any of the counsel for the defendants, or any of the defendants, about the matters inquired about, and when and where, if any where? State particularly.

S. BLATCHFORD,
Plaintiff's Solicitor.

("A.")

This agreement made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth that the said Chaffee for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereafter described, specified, hath sold, assigned and set over, and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredients, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees, that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same, for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to the said Chaffee, the sum of three thousand dollars, upon the following terms, viz.: one-half of the aforesaid sum or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer or conveyance of his right, title, and interest in said patents to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until said three thousand dollars shall be paid by said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sum of three thousand dollars shall be paid *for* or secured *upon* the patent and improvement on shellac.

In witness whereof, we have hereunto set our hands and seals, this twenty-third day of May, one thousand eight hundred and fifty.

CHARLES GOODYEAR,
EDWIN M. CHAFFEE.

Witness: JAMES A. DORR.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this paper writing was produced and shown to Nelson C. Newell, and by him deposed unto at the time of the examination, before

ROB'T. B. CAMPBELL,
Notary Public, Commissioner.

Deposition of Nelson C. Newell, a witness produced, sworn and examined the second day of October, in the year one thousand eight hundred and fifty-five, at the city of New York, under and by virtue of a commission hereto annexed, in an action pending in the Circuit Court of the United States for the Southern District of New York, in Equity, wherein Horace H. Day is complainant, and The Union India Rubber Company is defendant, on the part of the defendant.

Nelson Newell, of Long Meadow, in the State of Massachusetts, aged thirty years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the defendant, doth depose and say as follows, viz.:

1st. My name is Nelson C. Newell; I am thirty-one years of age; I belong at Long Meadow, in the State of Massachusetts; I am a button manufacturer.

2d. I am not acquainted with Horace H. Day. I know the Union India Rubber Company, as a company, and I am acquainted with some of the managers of it.

3d. I am acquainted with Edwin M. Chaffee, and have been acquainted with him for twenty-five years; I am a first cousin to him.

4th. I know of the patent granted to Chaffee, 31st August, 1836, and extended 31st August, 1850; I worked for him and with him for several years, manufacturing india rubber, during which time we used his patented machinery; I know what he patented, and what his machinery was, though I never read his patent.

5th. I have had conversation with said Chaffee, relative to the extension of said patent, previous to said extension; he said that the extension was to be procured without any expense to him. It was

to be done at the expense of Mr. Goodyear, and for the benefit of Mr. Goodyear and his licensees. That is the way I understood it. Mr. Goodyear was to get the patent extended at his own expense, and pay Mr. Chaffee a definite sum; I think it was three thousand dollars. I have had no conversation with Mr. Chaffee on the subject, since the extension.

6th. The conversation above referred to, took place at my house, at Long Meadow; I think it was in the year one thousand eight hundred and fifty. It was before the extension, a short time previous to it.

The rest of this question has been answered in my answer to the 5th interrogatory.

At the time of this conversation, I did not understand that any definite agreement had been entered into. He had had this proposal made to him by Mr. Goodyear, but he had not then fully made up his mind whether to accept it or not.

7th. I do not recollect any other matter or thing material to the matters in issue in this cause.

NELSON C. NEWELL.

Cross-Interrogatories: The conversation I have referred to was, as near as I can recollect, in the year one thousand eight hundred and fifty. It took place while he was on a visit at my house, at Long Meadow. The conversation was between ourselves, and in a confidential way. It was warm weather. I do not think that any one else heard the conversation. We were in the house, and about the village of Long Meadow, while this conversation was going on. I cannot recollect the precise language of the conversation, but the substance of it was, as I have before stated, in my answers, and I told him that if I were he, I would not sell it unless I was well paid for it, because it was very valuable, and they could not get along very well without it.

This subject of conversation was voluntarily started by himself.

No person took any part in this conversation except ourselves, that I recollect of. This was a short time before the extension of the patent.

2d. The conversation was before the extension of the patent; I do not recollect whether it was before or after the 23d of May, 1850, but I think that it was after that date.

3d. Mr. Chaffee gave me to understand that he had made no agreement; that he had not made up his mind fully; that Mr. Goodyear had made proposals to him. I do not recollect that he said anything to me about any globe and carpet business. Three thousand dollars is, I think, the sum that Mr. Chaffee told me that Mr. Goodyear proposed to give him, and he, Mr. Goodyear, to be at the expense of getting the patent extended.

4th. The conversation between us appeared to be unreserved and

confidential; I do not think that he said that he did not wish to state the precise terms of the contract, or anything to that effect.

5th. I never saw any writing or agreement between Chaffee and Goodyear, in relation to the extended patent; and I do not know the terms of any contract between them.

6th. I have never had any conversation with Mr. Chaffee on the subject of his extended patent after its extension.

7th. I have never had any conversation with Mr. Chaffee, nor heard any by him with others on the subject of his extended patent after its extension.

8th. I am not in any way connected with the Goodyear licensees; I do not hold any stock in any of their companies, nor have I at any time. I have been a licensee under Goodyear, but sold out some seven or eight years since.

I saw Seth P. Staples on the first day of October instant, for the first time, and talked about the matters inquired of. I have seen none of the other counsel for the defendants. The treasurer of the Union India Rubber Company has spoken to me on the subject. He came to see me at my place of business, within a fortnight.

N. C. NEWELL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 2d day of October, 1855.

ROBERT B. CAMPBELL,
Notary Public, Commissioner.

The counsel for the said complainant objected to the admission in evidence of the answers to the 5th and 6th direct interrogatories to the witness N. C. Newell, upon the ground that the declarations, admissions or statements of the said Chaffee were not competent or admissible as evidence for the purpose of contradicting or impeaching the testimony of the said Chaffee, because he had not been previously examined upon and his attention particularly called to such alleged declarations, and because it already appeared in evidence that there was a written contract between Chaffee and Goodyear, and parol evidence was incompetent either to explain or vary such written contract. The answers were admitted, subject to the objections, and it was then and there understood by the court and the parties that the said complainant objected, upon the same grounds, to all other testimony clearly of the same character, the objections to be considered and decided hereafter.

The counsel for the said defendant then read in evidence the deposition of William Rider. The complainant did not read the answers to the 9th and 10th cross-interrogatories, and the same were read by the defendants, subject to every objection of the complainant.

And to the decisions admitting the said answers hereinbefore mentioned, the counsel for the said complainant then and there, in due time, manner, and form, excepted.

The President of the United States, to Edward E. Cowles, Esq.:

Know ye, That we, with full faith in your prudence and competency, have appointed you Commissioner, and by these presents do authorize you to examine William Rider, Jonathan Trotter and Charles B. Hotchkiss, John L. Isbell and David S. Damon, as witnesses in a cause pending in the Circuit Court of the United States in and for the Southern District of New York, in a cause wherein Horace H. Day is complainant, and the Union India Rubber Company are defendants, on the part of the defendants, on oath, upon the interrogatories annexed to this commission, to take and certify the deposition of the witness, and return the same according to the directions hereunto annexed.

This commission is issued according to a stipulation of the parties hereunto annexed.

Witness, J. B. Staples, solicitor for the defendants, by S. P. Staples, the 24th day of September, 1855.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
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THE UNION INDIA RUBBER COMPANY. } In Equity.

It is hereby stipulated, that the commissions which are already or may be hereafter issued in this cause, may be issued by either party without the seal of the court or the signature of the clerk, but with the same effect as if such commission bore the same; and be directed to and taken by any disinterested United States commissioner, or any judge of any court, or any justice of the peace, or any commissioner authorized to administer oaths, who shall be first designated to and approved by the adverse party; that such commissions may be delivered by the party issuing them, to the commissioners; that such commissioners shall execute the same strictly in accordance with the rules and practice of this court; that neither party shall attend the examination of witnesses, in person, or by agent, attorney or counsel; that such commission, when taken out of the City of New York, shall be returned by mail to the clerk of this court, and when taken in the city, shall be delivered to the said clerk by the commissioner; that publication of such commissions shall pass immediately on their return to the clerk's office, and that either party may, without further notice to that effect, enter an order to that effect, and that the plaintiff may have copies of the said commissions and examinations for the purpose of printing the same; and that he shall furnish the defendants with printed copies, on their paying their proportionate share of the expenses of printing the same.

Dated Sept. 17th, 1855.

(Signed) S. BLATCHFORD,
Solicitor for Plaintiff.

Robert B. Campbell is proposed by complainant as a suitable person to execute this commission, and I do not object.

J. B. STAPLES,
Solicitor for Defendant.
By S. P. S.

Sept. 27, 1855.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
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THE UNION INDIA RUBBER COMPANY.
} In Equity.

Interrogatories to be put to William Rider, of the city of New York, upon his examination as a witness on the part of the defendants in the above cause.

1. Where do you reside, and what has been your business for the last eight or ten years?

2. Do you know the parties in the above cause? If you answer in the affirmative, please state whether the defendants are an incorporated company, when it was incorporated, and for what purposes, and whether you was a member of said company from the time of its incorporation, and what business it carried on; and whether you are now a member of said company, and if not, when you sold out your stock, and whether you now have any interest in said company.

3. Are you acquainted with the business of manufacturing and selling india rubber cloths, and other india rubber business? If you answer in the affirmative, please state how long you have been acquainted with that business.

4. If you state that said Union India Rubber Company carried on the business of manufacturing and selling india rubber goods, please state what kind said company manufactured and sold, and who was the treasurer, and also who were the principal managers of the business of said company.

5. Do you know whether said company in carrying on their business of manufacturing india rubber goods, used any patented improvements for the preparation of india rubber for manufacturing purposes, and in the preparation of india rubber for the manufacture of the goods they made and sold? If you answer in the affirmative, please state whose patented improvements you used, and under whose patents your company worked while you was a member of it.

6. If you say the said company, now the defendants in this cause, worked under Charles Goodyear's patent for vulcanizing india rubber, reissued on an amended specification on the 25th day of December, 1849, and Edwin M. Chaffee's patent for working india rubber without the use of solvents, dated the 31st of August, 1836, and extended 31st of May, 1850—both patents then being claimed and

owned by Charles Goodyear, and used by him and others working under him; please state from whom, and through whom, the Union India Rubber Company derived the licenses under which they worked, giving the names of such persons and the dates of said licenses, and the transfer to said company and the date thereof, and whether said licenses and said transfers were or were not recorded in the Patent Office.

7. Do you know Charles Goodyear, and how long have you been acquainted with him? If you answer in the affirmative, please state when you first became acquainted with him, and what his business has been since you have known him.

8. Do you know Edwin M. Chaffee, now of Providence, R. I., and if yea, how long have you been acquainted with him, and what has been his business and occupation?

9. Do you know William Judson, Esq., of the city of New York, an attorney at law? If you answer in the affirmative, please state what has been said Judson's principal business for the last eight or ten years. Has said Judson or not been acting as the agent and attorney of Charles Goodyear, and his associates and licensees, for eight or ten years past, or for how long, in all the patent interest of said Goodyear and his licensees, which stood in his name and which stood in the names of others, which he had purchased and owned?—Please state particularly, so far as you know and recollect.

10. Have you any knowledge or recollection of an application being made to the Commissioner of Patents for the extension of said Chaffee's said patent of 31st Aug. 1836, and was you not at that time a member of the Union India Rubber Co., and an officer of said company, and largely interested in the stock thereof, and did you or not feel a deep interest, as president of said company, in knowing whether said application was made as well for the benefit of said Charles Goodyear's licensees, as for the interest of said Chaffee?

11. If you answer the last interrogatory in the affirmative, please state whether you was informed of the facts and circumstances attending said application, and particularly whether said application was made at the expense of said Goodyear and his licensees, and whether said William Judson was not their agent and attorney in said business, and did not as such conduct said business, and whether said Union India Rubber Company was not then and had not been using said Chaffee's patent, from the formation and commencement of the business of said company.

11th. Did you at any time, and if so, at what time or times, see and converse with the said Chaffee, or any one acting for him, respecting the application for the extension of said patent, and who were to pay the expenses thereof? If you answer this interrogatory in the affirmative, please state what conversation you had with said Chaffee, and when and where it was; and if you had more than one conversation on the subject, state them, and when and where they were had, and whether in such conversation or conversations you stated to said

Chaffee, that your company, meaning the Union India Rubber Company, had a deep interest in the question whether said patent should be extended or not; for if it should be extended, without the right to use the same as heretofore, being conceded or secured to said company, they would oppose it, or words to that effect; or how otherwise did you converse with said Chaffee on said subject, if you conversed with him at all?

13. If you say you did have such a conversation as inquired after, please state what reply, if any, said Chaffee made to your remarks to him, and particularly whether said Chaffee stated to you, at whose expense said application was to be made or was made or had been made, and whether said Goodyear and his licensees, and the defendants, would be benefited thereby, and how?

14. Did you or the Union India Rubber Company, or the officers thereof, in consequence of the conversations had with said Chaffee and others, and his or their assurances that said company would not be disturbed in the use of said Chaffee's patent, conclude not to oppose the extension of said patent, but to aid and assist in procuring the extension thereof, or how otherwise was business done?

15. Did said Chaffee ever make any objections to the use of his patent by said India Rubber Company, to your knowledge or belief, while you was the president or a member of said company?

16. How, and out of what fund or funds was the expense of said application for the extension of said patent to be paid, and who was the agent for paying said expenses?

17. If you state that the payments to defray the expenses of said application, were paid out of a fund or funds provided for that and other purposes connected with the defence and support of said patent, then owned by said Goodyear, and under which the defendants and other licensees were carrying on their works, please state whether the defendants, with other licensees, did or did not contribute to that fund particularly.

18. Did or did not the Union India Rubber Company continue the use of all said Chaffee's improvements, specified and claimed in the aforesaid patent, the same after said extension as before, without any objection ever made by said Chaffee, to your knowledge or belief, while you continued to be a member of said company?

19. Do you know any other matter or thing relating to the merits of the issues in said cause?—if so, please state the same.

Interrogatories by J. B. Staples, Solicitor for defendants.

Circuit Court of the United States, Southern District of New York.

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Cross-Interrogatories to William Rider, of the city of New York, a witness for the defendants in the above entitled cause.

1. What is your present business? state particularly.

2. Who are now the principal stockholders in the Union India Rubber Company?

3. State whether the Union India Rubber Company had any contract or agreement in writing, or otherwise, with Charles Goodyear, or any other person, for the use of the Chaffee patent during its original term,—if so, whether it was in writing, and if in writing, annex a copy, if you have one, if verbal, state when and where, and with whom it was made, if you know, and in answer to this question the complainant only asks for your personal knowledge.

4. If you say you knew of an application for the extension of the Chaffee patent, who informed you of it first, when, and where, and who was present, and what was said?—state particularly.

5. Did you, before the extension of said Chaffee patent, know of a contract in writing between Charles Goodyear and Edwin M. Chaffee, a copy of which is hereto annexed, and marked "A," and if you did, had you seen the contract, when and where, and if you had not seen it, and had been informed of it, by whom, when, where, and under what circumstances?

6. If in answer to the 11th interrogatory in chief, you say anything in reference to the expense of the application for extension being made at the expense of said licensees of Goodyear?—state whether anything was said to you on that subject by said Chaffee, when and where it was said, who was present, if anything was said?—state particularly all that was said.

7. Do you know that after the extension Messrs. Ford, Hutchinson & Candee were consulted by Mr. Judson about the contract, about the Chaffee patent, and that previous to that time no agreement had been made between Chaffee and any party about the extended patent, except the agreement, a copy of which is hereto annexed, marked "A," with Goodyear?

8. Have you any personal knowledge, except hearsay, as to how and by whom, the expenses of the extension were paid, and if so, state all you know personally?—and state it particularly.

9. If you say in answer to the 12th interrogatory in chief, that you, at any time, saw and conversed with E. M. Chaffee in reference to the extension, state when and where it was, who was present, the occasion, and what induced the conversation, and precisely if you can, and if not the precise words, substantially, what Chaffee said, and what you said, and what any other person whom you name to have been present, if any one was present, said?

10. If you say in answer to the 12th interrogatory in chief, that you had any conversation with Chaffee about the title to his patent and what arrangements he had made in respect to the extended term, should it be extended. Did not said Chaffee refer, in said conversation, to his agreement with Goodyear, hereto annexed, marked "A,"

and did he refer to any other agreements, and if so, what?—state particularly.

11. Did Chaffee tell you, before the extension, that the application was to be at the expense of Goodyear, or that he was to pay the expenses?

The complainant objects to the 14th interrogatory in chief, on the ground that the conclusions of witness, and those associated with him, are improper, irrelevant, and immaterial. The complainant objects to the witness answering as to his conclusions or hearsay.

12. If, in answer to the 16th interrogatory in chief, you say anything about a fund or funds out of which the expenses of said application were paid, state whether you know anything about it, except what is contained in written contracts between Charles Goodyear and William Judson, Seth P. Staples, and Goodyear's licensees, and when you last saw said papers, if you now know their contents, and whether you personally paid, or saw any other person pay said expenses, or any part thereof, and if so, whom, when, and under what circumstances?—state particularly all you personally know.

13. How many machines were the defendants using when you ceased to be a member of said company; how many spreading, how many grinding machines? When, and where, and by whom were they built?—state particularly.

14. How many machines, either spreading or grinding machines, have been put in operation, or put into said factory, or being in the same, have been put in operation since August 31, 1850, if any?—state particularly.

15. State generally the nature and amount of business and manufacture done by defendants annually.

16. Do you know, or can you set forth, any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, on the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Plaintiff.

("A.")

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth that the said Chaffee for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereinafter described, specified, hath sold, assigned, and set over, and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredients, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees, that the said Goodyear may proceed

to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same, for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to the said Chaffee, the sum of three thousand dollars upon the following terms, viz., one-half of the aforesaid sum, or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that, if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer, or conveyance of his right, title, and interest in said patents to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until said three thousand dollars shall be paid by said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sum of three hundred dollars shall be paid for or secured upon the patent and improvement on shellac.

In witness whereof we have hereunto set our hands and seals, this twenty-third day of May, one thousand eight hundred and fifty.

CHARLES GOODYEAR,
EDWIN M. CHAFFEE.

Witness,
JAMES A. DORR.

At the execution of the annexed commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendants, this printed paper was produced and shown to William Rider, and by him subscribed and deposed unto, at the time of the examination of witnesses before me.

EDWARD E. COWLES,
Commissioner.

Depositions of witness, produced, and examined the twenty-sixth day of September, and other days, stated in the jurats respectively in the year one thousand eight hundred and fifty-five, at the office of Edward E. Cowles, No. 4 New St., in the City of New York, under and by virtue of a commission issued out of the Supreme Court of the United States, in a certain cause pending in the Circuit Court of the United States, in and for the Southern District of New York, in a cause wherein Horace H. Day is complainant, and the Union India Rubber Company are defendants, on the part of the defendants on oath upon the interrogatories annexed to this commission, as follows:

William Rider, of the City of New York, manufacturer, aged forty years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined, doth depose and say as follows, viz.:

1st. I reside in the City of New York; my business has been the manufacturing and dealing in india rubber and gutta percha goods for the last fourteen years.

2d. Yes, I know the parties in the above cause. The defendants are an incorporated company. It was incorporated in the year 1848. It was incorporated for the purpose of manufacturing india rubber goods; I was a member of the company from the commencement. It carried on the manufacture of india rubber; I am not now a member of the company; I sold out my stock, in the year 1850 or 1851; I have no interest in said company now.

3d. I am; I have been acquainted with that business ever since the year 1841.

4th. The said company manufactured cloths, clothing, hose, syringes and several other articles; I was treasurer of the company while I held stock; Jonathan Trotter was president of the company, and Emory Rider was factory manager.

5th. They did; they used the improvements patented by Charles Goodyear, for vulcanizing; the company worked under Goodyear's patents when I was with it. The company also used the machinery patented by E. M. Chaffee, August 31st, A.D. 1836.

6th. The Union Company worked under license from Charles Goodyear; I do not know that the company ever had any written license to work under Chaffee's patent; my impression is that it was only a verbal one from Charles Goodyear; I cannot give the date of the license from Goodyear, or whether it was recorded in the patent office.

7th. I know Charles Goodyear, and have been acquainted with him about fourteen years; I first saw him in the year 1840; his business has been the manufacture of india rubber.

8th. I do know Edwin M. Chaffee, now of Providence, R. I. I have known him about twelve years; his business has been the manufacture of india rubber goods.

9th. I do know William Judson of New York; I have known him about eleven years. So far as I know, Mr. Judson has been principally engaged as the attorney for the prosecution of infringers on Goodyear's patents, for eight or nine years; I know most of Goodyear's licensees have looked to Mr. Judson as the legal defender of Goodyear's patents.

10th. I was told in the year 1850; I think that an application was about being made for the extension of Chaffee's patent of A.D. 1836; I was at that time a member and treasurer of said Union India Rubber Company; a large stockholder, and felt a deep interest in knowing whether said application was made as well for the benefit of Goodyear's licenses as for Chaffee.

11th. I was informed by Seth P. Staples and William Judson, regarding the application. Said Union Rubber Company was then, and had been, using said machinery from the commencement of the company.

12th. I did see and converse with said Chaffee, previous to the extension of his patent, and during the time the application was pending for the extension of it; I think the conversation was held at No. 98 Broadway, in the spring of the year 1850, when Chaffee told me that Mr. Judson was paying the expenses attending the extension of the patent, and that Goodyear's licenses were to be continued and would be continued in the use of the patent; I do not recollect whether I said anything about the Union India Rubber Company at the time of my conversation with Chaffee. He, however, knew that I asked, because I was interested in said company; I do not recollect telling Chaffee that our company would oppose the patent, unless it had the use of it as extended.

13th. At the conversation with Chaffee above-stated, Chaffee said to me that Mr. Judson paid the expenses, and that the licensees of Goodyear were to have the use of the contemplated extended patent, but did not say anything in particular about the Union India Rubber Company.

14th. No action in particular was had by the Union India Rubber Company, or its officers, regarding the extension of Chaffee patent; but had the company understood that it was not to have the use of the patent, I am sure the company would have opposed the extension.

15th. Chaffee never made any objections to the use of his patent by the Union India Rubber Company to my knowledge.

16th.

17th. I know that the Union India Rubber Company contributed to the fund referred to, but I do not know that the expense of Chaffee's patent extension was paid out of that fund.

18th. Said Union India Rubber Company did continue the use of said Chaffee's improvements, specified and claimed in the aforesaid patents, the same after said extension as before, without any objec-

tion from said Chaffee, to my knowledge, while I continued a member of said company.

19th. I do not know any other matter or thing relating to the merits of the issue in said cause.

WILLIAM RIDER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this 26th day of September, 1855, before me,

EDWARD E. COWLES,
Commissioner.

Cross-Interrogatories:—1st. My present business is the manufacture of gutta percha goods.

2d. I am not able to state who are now the stockholders of the Union India Rubber Company.

3d. I do not know whether or not the Union India Rubber Company had a written license from Charles Goodyear, or any other person, to use Chaffee's patent during its original term. My impression is, that said company had none but a verbal license from Goodyear, and when, where, and with whom it was made I cannot say.

4th. The first I knew that steps were being taken for the extension of Chaffee's patent, Mr. Seth P. Staples sent for me to come to his office, and there he told me he desired to take my deposition preparatory to the application for the extension of Chaffee's patent. I cannot say when this happened, or whether or not any other person was present.

5th. I did not know before the extension of the contract in writing between Charles Godyear and Edwin M. Chaffee as per copy annexed, marked A.

6th. I know nothing more on the subject than I stated on my direct examination.

7th. I do not know of any consultations between Ford, Hutchinson, Candee and Judson on the subject of the extended Chaffee patent.

8th. Mr. Chaffee told me previous to the extension being granted, that Judson furnished the funds, and Judson stated the same to me about the same time, also before the extension.

9th. I conversed with Chaffee, in regard to the extension of his patent, previous to the extension being granted, at which time he told me Mr. Judson paid the expense, and that Goodyear's licensees were to have a continued use of the patent. According to my best recollection, this conversation took place at No. 98 Broadway, in the spring of the year, 1850, when no other person was present. I was largely interested in the Union India Rubber Company, who were using the Chaffee machinery, and I desired to know how the company would stand in that respect after the extension.

10th. I cannot state positively, but my impression is, that at the time I had the conversation with Chaffee, as above stated, he re-

marked that he and Goodyear had a perfect understanding about the use of his patent machinery under the proposed extension, so that his, Goodyear's licensees, would not be injured by the extension.

11th. Chaffee told me before the extension, that Judson was paying the expenses of the extension of his patent.

12th. I did not pay such expenses myself, and do not know of any one else paying such expenses, or any part of them.

13th. The defendants had in use when I left the concern, two sets of spreading machines, and four sets of grinders at their mill in Harlem, and one set of spreading calenders and two or three sets grinders. I think most of them were built by Wm. Frost, of Brooklyn.

14th. I cannot answer this inquiry, not having access to the establishment of the said company, and do not know.

15th. The principal business done by the Union India Rubber Company while I was concerned in it, were clothing, carriage cloths, hose, syringes, sheet rubber, &c., and the amount of business done during the two years, commencing in the fall of the year 1848, and ending in the fall of 1850, amounted to about three hundred thousand dollars each year.

16th. I do not know of anything further to state on the subject-matter of the last cross-interrogatory.

WILLIAM RIDER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 26th day of September, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

Circuit Court of the United States.

HORACE H. DAY
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THE UNION INDIA RUBBER CO. } In Equity.

Interrogatories to be put to Jonathan Trotter, of the city of New York, upon his examination as a witness on the part of the defendants in the above cause.

1. Where do you reside and what has been your business for the last eight or ten years?

2. Do you know the parties in the above cause? If you answer in the affirmative, please state whether the defendants are an incorporated company, when it was incorporated, and for what purpose, and whether you was a member of said company from the time of its incorporation, and what business it carried on; and whether you are now a member of said company, and if not, whether you sold out your stock, and whether you now have any interest in said company; and please state whether Charles Goodyear herein mentioned, is now in

this country or in Europe; if absent, please state how long he has been absent from this country?

3. Are you acquainted with the business of manufacturing and selling india rubber cloths and other india rubber business? If you answer in the affirmative, please state how long you have been acquainted with that business, and whether you were not the president of said company, and if so, for how long a time?

4. If you state that said Union India Rubber Company carried on the business of manufacturing and selling india rubber goods, please state what kind said company manufactured and sold, and who was the treasurer, and also who were the principal managers of the business of said company?

5. Do you know whether said company in carrying on this business of manufacturing india rubber goods, used any patented improvements for the preparation of india rubber for manufacturing purposes, and in the preparation of india rubber for manufacture of the goods they made and sold? If you answer in the affirmative, please state whose patented improvements you used, and under whose patents your company worked while you was a member of it and president, and if you at any time was president thereof.

6. If you say the said company, now the defendants in this cause, worked under Charles Goodyear's patents for vulcanizing india rubber, reissued on an amended specification on the 25th day of December, 1849, and Edwin M. Chaffee's patent for working india rubber without the use of solvents, dated the 31st of August, 1836, and extended 31st of May, 1850, both patents then being claimed and owned by Charles Goodyear, and used by him and others working under him, please state from whom and through whom the Union India Rubber Company derived the licenses under which they worked, giving the names of such persons and the dates of said licenses and the transfer to said company, and the date thereof, and whether said licenses and said transfers were or were not recorded in the patent office?

7. Do you know Charles Goodyear, and how long have you been acquainted with him? If you answer in the affirmative, please state when you first became acquainted with him and what his business has been since you have known him?

8. Do you know Edwin M. Chaffee now of Providence, R. I., and if yes, how long have you been acquainted with him, and what has been his business and occupation?

9. Do you know William Judson, Esq., of the city of New York, an attorney at law? If you answer in the affirmative, please state what has been said Judson's principal business for the last eight or ten years? Has said Judson or not, been acting as the agent and attorney of Charles Goodyear and his associates and licensees for eight or ten years, or for how long, in all the patent interest of said Goodyear and his licensees, which stood in his name and which stood

in the names of others which he had purchased, and owned? please state particularly so far as you know and recollect and; was there or not a large fund raised by said Goodyear, his licensees and shoe associates, by an assessment upon said Goodyear's tariffs, and by a certain percentage paid by shoe associates and other licensees on these manufactures, which was paid to a trustee for the use of said William Judson and said Goodyear's other counsel, to defray the expenses of such legal measures as might be necessary or proper to sustain and secure the patent rights under which said licensees worked, and do what might be needful or beneficial relative to the same, and whether the Union Rubber Company did not contribute to that fund?

10. Have you any knowledge or recollection of an application being made to the commissioner of patents for the extension of said Chaffee's said patent of 31st of August, 1836? and were you not at that time a member of the Union India Rubber Company, and an officer of said company, and largely interested in the stock thereof, and did you or not feel a deep interest as president of said company, in knowing whether said application was made as well for the benefit of said Charles Goodyear's licensees as for the interest of said Chaffee, and did you not endeavor to become satisfied on that point?

11. If you answer the last interrogatory in the affirmative, please state whether you were informed of the facts and circumstances attending said application, and particularly whether said application was made at the expense of said Goodyear and his licensees, and whether said William Judson was not their agent and attorney in said business, and did not as such, conduct said business, and whether said Union India Rubber Company was not then, and had not been using said Chaffee's patent from the formation and commencement of the business of said company?

12. Did you at any time, and if so, at what time or times see and converse with the said Chaffee, or any one acting for him, or interested in said extension, respecting the application for the extension of said patent, and who were to pay the expenses thereof. If you answer this interrogatory in the affirmative, please state what conversation you had with said Chaffee, and when and where it was, and if you had more than one conversation on the subject, state them, and when and where they were had, and whether in such conversation or conversations you stated to said Chaffee, that your company, meaning the Union India Rubber Company, had a deep interest in the question, whether said patent should be extended or not; for if it should be extended without the right to use the same as heretofore being conceded or secured to said company, they would oppose it, or words to that effect, or how, otherwise, did you converse with said Chaffee on said subject, if you conversed with him at all?

13. If you say you did have such conversation as inquired after

please state what reply, if any, said Chaffee made to your remarks to him, and particularly whether said Chaffee stated to you at whose expense said application was to be made, or was made, or had been made, and whether said Goodyear and his licensees and the defendants would be benefited thereby, and how?

14. Did you or the Union India Rubber Company, or the officers thereof, in consequence of the conversation had with said Chaffee and others, and his or their assurances that said company would not be disturbed in the use of said Chaffee's patent, conclude not to oppose the extension of said patent, but to aid and assist in procuring the extension thereof, or how otherwise was the business done?

15. Did said Chaffee ever make any objection to the use of his patent by said india rubber company, to your knowledge or belief, while you were the president or a member of said company.

16. How, and out of what fund or funds was the expense of said application for the extension of said patent to be paid, and who was the agent for paying said expenses?

17. If you state that the payments to defray the expenses of said application were made out of a fund or funds provided for that and other purposes connected with the defence and support of said patent, then owned by said Goodyear, and under which the defendants and others, licensees, were carrying on their works, please state whether the defendants, with other licensees, did or did not contribute to that fund, particularly what you know on the subject, and how?

18. Did or did not the Union India Rubber Company continue the use of all said Chaffee's improvements, specified and claimed in the aforesaid patent, the same after said extension as before, without any objections ever made by said Chaffee, to your knowledge or belief, while you continued to be a member of said company?

19. Do you know of any other matter or thing relating to the merits of the issue in said cause? if so, please state the same.

By J. B. STAPLES,
Solicitor for Defendants.
By S. P. STAPLES.

Circuit Court of the United States, Southern District of New York.

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THE UNION INDIA RUBBER COMPANY. } In Equity.

Cross-interrogatories to Jonathan Trotter, of the city of New York, a witness for defendants.

The complainant objects to the witness on the ground of interest.

The complainant objects to each interrogatory from the 5th to the last, because they ask:

1. The opinion of the witness.
2. Asks for hearsay.

3. For parole evidence of the contents of written papers, which should be produced, and because they are leading.

1. Cross-Interrogatory: If you say you have sold out your interest in the Union India Rubber Company, state when and to whom you sold it, precisely what that interest was, how you were paid, who paid you, whether there was an agreement that you should receive back your stock. State minutely all the circumstances of the sale, and whether it was with a view, or for a purpose, of being a witness in this cause. State all the circumstances.

2. How many grinding and spreading machines were in the factory of the defendants on the 31st of August, 1850, and how many now, and how many at any time since?

3. Can goods be well made without the use of the Chaffee process, and is his process beneficial in the india rubber business, and what are its advantages?

4. Are not all the rights held by the Union India Rubber Company to manufacture under Goodyear's patents, or any other, in writing, and if not, define particularly what are verbal, when and where, and by whom, and how made? State particularly.

5. Did the Union India Rubber Company pay anything, and what, for the use of the Chaffee patent during the original term, and if anything has been paid, state when, where, by whom, how much. State particularly.

6. If in answer to interrogatories in chief, you say that you know anything about the expenses of the extension, and for whose benefit it was made, answer when you first heard of the contemplated extension, when and where, and from whom; if from Mr. Chaffee, state precisely, if you can, what he said; if from any other person than Chaffee, state the time, place, and date of the information, who gave it? but not what was said.

7. Did you know, of your own personal knowledge, anything about the expenses of the extension; were you present when any part thereof was paid; and if any one paid any of the expenses, when, where, and what? State particularly what you know of your personal knowledge, but nothing from hearsay.

8. Did you know of a contract between Goodyear and his licensees, and Wm. Judson and Seth P. Staples, by which a fund was to be raised to pay certain expenses? If you have seen such a paper, when and where did you first see it?

9. Had you any other personal knowledge about the payment of those expenses than what arose from your knowledge of that trust fund?

10. Have you any personal knowledge as to who acted as the agent of said Chaffee in procuring the extension of that patent?

11. Do you know personally that Wm. Judson did not pay the expenses out of his own money, or part of them?

12. Do you know that said expenses, or any part, have been paid,

and if so, what part? Name each item which you know to have been paid, the time and place of payment, the person who paid, who received, what the payment was for, and how you happened to be present.

The complainant objects to any information obtained from Judson, Goodyear and his licensees, as indicated in the 7th interrogatory in chief.

13. When and where did you see E. M. Chaffee between the 23d day of May and the 31st day of August, 1850? Name each time and place, if more than once, who was present, and how you happened to see him.

14. Did not Mr. Chaffee tell you he had made a contract with Goodyear about the extended patent?

15. Did you ever see or hear of a contract between Charles Goodyear and E. M. Chaffee, dated May 23d, 1850, a copy of which is hereto annexed and marked "A;" and if so, when did you first hear of it; where, and from whom? State particularly.

16. Did not Mr. Chaffee tell you of paper "A" before the extension, and when?

17. If you state any conversation with Chaffee or Goodyear in answer to the cross-interrogatory, or in answer to the cross-interrogatories in chief, state when and where each took place, and who was present.

18. If you have said anything about, or in reference to any agreement between Chaffee and the licensees of Goodyear, upon the extension of his patent, state whether you did not then know, and do not now know, that the contract between Chaffee and Goodyear of the 23d of May was in existence at the time of the extension, and whether you, of your own personal knowledge, knew, and were present when any other contract was made than said written contract by said Chaffee. If so, state when and where it was made, who was present, and the precise terms of it, state particularly.

19. Were not all Judson's duties, referred to in the 9th interrogatory in chief, as the agent and attorney of Goodyear, in writing; and if yea, have you read the paper or papers, and have you the paper or papers, or a copy thereof? and if so, annex them; but I do not ask you to state their contents.

20. Were not all matters in reference to the fund in writing, and have you the paper or papers? did you ever read them or it, and will you annex a copy thereof?

21. If in answer to the 10th, 11th, 12th, or 13th interrogatory in chief, you have stated any conversation with Chaffee or by Chaffee, state when and where it was, the year, the month, and the day, if you can, who was present, all that was said, and did not Chaffee say he had made a contract in writing with Goodyear, and did he say what it was?

22. Did the Union India Rubber Company do anything more than pay their usual tariffs, and what?

23. Do the licensees hold meetings, and if so, how often, and when, and for what purpose, and is Judson generally present at those meetings?

24. Do they keep books?

25. Was a book of the so-called trust fund kept, and by whom?—state all the persons keeping or having possession of it.

26. Have you not taken an active part to aid in defeating this suit?

27. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

SAM'L. BLATCHFORD,
Solicitor for Complainant.
By C. A. STEWARD,
Of Counsel.

("A.")

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth that the said Chaffee for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereinafter described, specified, hath sold, assigned and set over, and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredient, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees, that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to said Chaffee, the sum of three thousand dollars upon the following terms, viz.: one-half of the aforesaid sum or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first-named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

and if so, what part? Name each item which you know to have been paid, the time and place of payment, the person who paid, who received, what the payment was for, and how you happened to be present.

The complainant objects to any information obtained from Judson, Goodyear and his licensees, as indicated in the 7th interrogatory in chief.

13. When and where did you see E. M. Chaffee between the 23d day of May and the 31st day of August, 1850? Name each time and place, if more than once, who was present, and how you happened to see him.

14. Did not Mr. Chaffee tell you he had made a contract with Goodyear about the extended patent?

15. Did you ever see or hear of a contract between Charles Goodyear and E. M. Chaffee, dated May 23d, 1850, a copy of which is hereto annexed and marked "A;" and if so, when did you first hear of it; where, and from whom? State particularly.

16. Did not Mr. Chaffee tell you of paper "A" before the extension, and when?

17. If you state any conversation with Chaffee or Goodyear in answer to the cross-interrogatory, or in answer to the cross-interrogatories in chief, state when and where each took place, and who was present.

18. If you have said anything about, or in reference to any agreement between Chaffee and the licensees of Goodyear, upon the extension of his patent, state whether you did not then know, and do not now know, that the contract between Chaffee and Goodyear of the 23d of May was in existence at the time of the extension, and whether you, of your own personal knowledge, knew, and were present when any other contract was made than said written contract by said Chaffee. If s , state when and where it was made, who was present, and the precise terms of it, state particularly.

19. Were not all Judson's duties, referred to in the 9th interrogatory in chief, as the agent and attorney of Goodyear, in writing; and if yea, have you read the paper or papers, and have you the paper or papers, or a copy thereof? and if so, annex them; but I do not ask you to state their contents.

20. Were not all matters in reference to the fund in writing, and have you the paper or papers? did you ever read them or it, and will you annex a copy thereof?

21. If in answer to the 10th, 11th, 12th, or 13th interrogatory in chief, you have stated any conversation with Chaffee or by Chaffee, state when and where it was, the year, the month, and the day, if you can, who was present, all that was said, and did not Chaffee say he had made a contract in writing with Goodyear, and did he say what it was?

22. Did the Union India Rubber Company do anything more than pay their usual tariffs, and what?

23. Do the licensees hold meetings, and if so, how often, and when, and for what purpose, and is Judson generally present at those meetings?

24. Do they keep books?

25. Was a book of the so-called trust fund kept, and by whom?—state all the persons keeping or having possession of it.

26. Have you not taken an active part to aid in defeating this suit?

27. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

SAM'L. BLATCHFORD,
Solicitor for Complainant.
By C. A. STEWARD,
Of Counsel.

("A.")

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth that the said Chaffee for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereinafter described, specified, hath sold, assigned and set over, and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredient, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees, that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to said Chaffee, the sum of three thousand dollars upon the following terms, viz.: one-half of the aforesaid sum or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first-named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

The said Chaffee upon his part agrees further, that on the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer or conveyance of his right, title, and interest in said patents to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until said three thousand dollars shall be paid by said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sam of three thousand dollars shall be paid *for* or secured *upon* the patent and improvement on shellac.

In witness whereof, we have hereunto set our hands and seals, this twenty-third day of May, one thousand eight hundred and fifty.

CHARLES GOODYEAR,
EDWIN M. CHAFFEE.

Witness,
JAMES A. DORR.

At the execution of the annexed commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this printed paper was produced and shown to D. S. Damon and Charles B. Hotchkiss and Jonathan Trotter, and by them subscribed and deposed unto at the time of their examination before me,

EDWARD E. COWLES,
Commissioner.

Jonathan Trotter, of the city, and county, and State of New York, of lawful age, being duly sworn, deposeth and says as follows:

1st. I reside No. 6 St. Mark's Place, in the city of New York; my business for the last eight or ten years has been that of the manufacture of india rubber goods, and the zinc and iron business.

2d. I know the parties to this action; and the Union India Rubber Company is an incorporated company under the laws of the State of New York, and was incorporated in the year 1848, for the purpose of manufacturing india rubber goods. I was a member of the said company from the time of its incorporation until the year 1851 or 1852; I am not now a member of said company. While I was a member of the company it carried on the business of manufacturing india rubber goods in all the branches of that business authorized by its incorporation; I sold out my interest in the said company, I think

in the year 1851, and I am not interested in the company, having sold out all my stock therein. Charles Goodyear is now in Europe, and has been absent from this country some two or three years.

3d. I am acquainted with the business of manufacturing and selling india rubber cloths and other india rubber business, and have been acquainted with that business for some eight years; I was president of the company from the time of its organization until the year 1851.

4th. That the said company manufactured and sold wearing apparel goods for the army and navy, and articles authorized by the license acquired from the Naugatuck India Rubber Company; William Rider was the treasurer of the company from its organization until the year 1850, when Nicholas Williams became its treasurer, and continued until I left the company in the year 1851. The president, the treasurer, Emery Rider, factory manager, Elihu Townsend, and Nicholas Dean, trustees, were the principal business managers of the said company.

5th. We did. We used Edwin M. Chaffee's patent for grinding and preparing the rubber, and Haywood's patent for sulphur, and Charles Goodyear's patents; all of which rights were derived from Charles Goodyear, and which the Union India Rubber Company worked while I was a member and president of the company.

6th. The licenses under which the company worked were derived from Charles Goodyear. They derived their licenses for wearing apparel from myself, for the goods for the army and navy from William Rider & Brothers, and then other rights from the Naugatuck India Rubber Company. I do not remember the precise dates called for by this interrogatory; but the transfers were all made in the summer and fall of the year 1848, and I believe they were all recorded in the patent office.

7th. I know Charles Goodyear and have been acquainted with him for nine or ten years; I became acquainted with him in the year 1845 or 1846, and he has pursued the india rubber business ever since my acquaintance with him.

8th. I know Edwin M. Chaffee, and have been acquainted with him for about twenty-five years: he has been engaged in the patent leather and india rubber business.

9th. I know William Judson. As far as I know of his business, he has been engaged in lawsuits and attending the law business of Charles Goodyear and his licensees. I have known the said Judson about eight years, and for about that period he has been engaged as above stated. There were funds raised from licensees and by assessments on Goodyear's tariffs, and by shoe associates, to defray the law expenses of the actions brought in defence of the patent rights; but I have no recollection of the Union India Rubber Company, while I was connected with it, paying any specific sum towards said fund, or anything excepting what might be deducted from the tariffs

paid by the company I do not know the amount of such fund raised, or whether this fund was placed into the hands of a trustee for the use of William Judson, or not.

10th. I knew that an application was made to the Commissioner of Patents for the extension of Chaffee's patent of 31st August, 1836; I was at that time a member of and president of the Union India Rubber Company, and largely interested in the stock thereof, and felt a deep interest in knowing whether said application was made as well for the benefit of Charles Goodyear and his licensees, as for the interest of said Chaffee, and I made an effort to become satisfied on that subject.

11th. William Judson, Esq., was active in the matter. The Union India Rubber Company was at that time and had been using said Chaffee's patent from the formation and commencement of the business of said company.

12th. I saw Chaffee once or twice and conversed with him on the subject of the extension of the patent; I do not recollect the precise times or dates of these conversations; I do not remember conversing with him on the subject as to who was to pay the expenses of the application. These conversations took place in the store of the India Rubber Company, but I do not now recollect the details of such conversations, but they were generally on the subject of the extension of the patent; I do not remember stating to Chaffee that the company had a deep interest in the patent should it be extended, although it was well known that I felt such an interest.

13th. My answer to this interrogatory is substantially contained in the foregoing (12th) interrogatory; I do not remember that the said Chaffee, in such conversations, said anything about the expense of said application for the extension, or who was to pay the said expenses, or who was to be benefited thereby.

14th. I was not influenced by any conversations alluded to in this interrogatory; and I do not believe any other officers of the company were thus influenced.

16th. But who the party that held or paid it, I do not know.

17th. I know of no special amounts contributed by the Union India Rubber Company towards the expenses of this extension, other than was raised by the tariffs, or out of the fund held by the associates above spoken of.

18th. Yes. The company continued to use the patents the same after as before the extension, without any objections being made by Chaffee, to my knowledge.

19th. The only matter I know, is, that Mr. Chaffee was employed by Charles Goodyear, in New Haven, and elsewhere, during the time that the application was made for the renewal of the patent.

JONA. TROTTER.

Examination taken, reduced to writing, and by the witness sub-

scribed and sworn to, this 12th day of October, A. D. 1855, before me.

EDWARD E. COWLES,
Commissioner.

Cross-Interrogatories.

1st. I sold out my interest in the Union India Rubber Company in the fall of the year 1851, and the spring of 1852, to several persons. I sold some to Mr. Mumford, and some to Mr. Underhill, and the last of the stock, with other stock, was sold by one Calvin F. Spear. I do not remember the number of shares, but at par value there was fifty or sixty thousand dollars worth of it. I was paid for the same by the purchasers, and have never taken a dollar of the stock back, nor did I ever agree to do so. The sales were made in good faith, and the sales were not made with a view to be a witness in this cause.

2d. On the 31st August, 1850, there were about six or seven grinding and spreading machines in the defendants' factory; I do not know how many there are now, or how many at other times since my connection with the company.

3d. India rubber goods can be made without the use of the Chaffee improvements; but the Chaffee improvements are beneficial in improving and cheapening the manufacture, which are its advantages.

4th. They are all in writing.

5th. They paid nothing for the use of the Chaffee patent during the original term.

6th. I know nothing about the expenses called for by this interrogatory further than before stated. I do not remember any particular conversation or conversations with Chaffee, or any other person or persons on that subject.

7th. I know nothing of my personal knowledge about the expenses of the extension; and I was not present when any money was paid, that I recollect.

8th. I have heard of such a contract, but do not recollect that I have ever seen it, until I was called as a witness in this case.

9th. No.

10th. No.

11th. I do not.

12th. I have no personal knowledge that the expenses or any part were paid; I never saw any item paid.

13th. I have no recollection on the subject-matter of this interrogatory.

14th. I do not recollect that Chaffee ever told me so.

15th. I heard that there was such a contract, but have no recollection of having seen it, until I saw it attached to this commission, about a week since; I do not recollect when I first heard of it, where I was at the time, or who told me of it.

16th. I have no recollection of his telling of such a paper at any time.

17th. I have no recollection of the subject-matter of this interrogatory.

18th. I was not present, and have no personal knowledge that any other contract was made by said Chaffee.

19th. I presume there was such a writing; but I do not recollect ever having seen or read such paper or papers; and I have no such papers in my possession, or copies of them.

20th. I presume they were in writing; but I have no paper or papers on the subject, and have never read them.

21st. In my answers to the interrogations mentioned in this interrogatory, I have stated in substance that I had had conversations at the store of the Union India Rubber Company with Chaffee, in regard to the extension of the patent; but what the particulars of such conversations were, or the year, month, and days, that such conversations occurred, and who was present, all that was said, I cannot now recollect; and I have no recollection that Chaffee ever said, in such conversations, that he had made a contract in writing, or any other contract, with Goodyear—or what that contract was.

22d. The Union India Rubber Company did not do anything more than pay their annual tariffs, to my knowledge.

23d. I have known two or three meetings of the trade to consult as to the interest of the licensees, and for general purposes, at which meetings Judson was present. But I never attended any regular or stated meetings of the licensees (the Shoe Association having such matters under their control).

24th. I do not know.

25th. I know nothing on the subject of this cross-interrogatory.

26th. I have not.

27th. I can think of nothing further than I have heretofore stated.

JONA. TROTTER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 12th day of October, A.D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

The Counsel for the said defendants then read in evidence, subject to the objections taken by the complainant in the cross-interrogatories to the said witness, the deposition of John L. Isbell, as follows. The complainant did not read the answers to the cross-interrogatories, and the same were read by the defendants. And to the decision admitting the same, the counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

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Interrogatories to be put to John L. Isbell, of Naugatuck, in Connecticut, a witness to be sworn and examined on the part of the defendants in said cause.

1. What is your name and age; and where do you belong; and what is your occupation?

2. Do you know the parties in the above cause; and have you any interest in the same?

3. Have you any interest in the patent obtained by Edwin M. Chaffee for improvements in the preparation of india rubber for manufacturing purposes, dated the 31st of August, 1836, and extended for another term on the 31st day of August, 1850; or any interest with said Chaffee in any business?

4. Are you acquainted with said Edwin M. Chaffee, now of Providence, in the State of Rhode Island? and if so, for how long a period of time have you been acquainted with him; and what has been the business of said Chaffee since you have known him?

5. Have you ever had any conversation with said Chaffee in relation to said patent, and the extension thereof? If you answer in the affirmative, please state when and where that conversation was; whether said Chaffee stated to you the terms on which the application for the extension of said patent was made; and at whose expense it was made; and for whose benefit; and who were to have the use of said patent; and what was to be the benefit or compensation to said Chaffee; and how, and by whom that compensation was to be made to him.

6. If you answer the last interrogatory in the affirmative, please state particularly the conversation or conversations you have had with said Chaffee, in relation to the terms on which said extension was obtained, and who he said was to be benefited thereby; and who, as he said, was to pay the expenses thereof; and how, and in what manner said Chaffee was to be compensated for the use of said patent by those who have the use of it after extended; and how, and by whom said compensation had been seen secured to said Chaffee, as he informed you, if he did inform you, on this subject. Please state particularly what said Chaffee said to you on each point inquired of, if he said anything on those points.

7. If any other matter or thing is within your knowledge, material to either party, please state it.

By J. B. STAPLES,
Solicitor for the Defendants.

Circuit Court of the United States, Southern District of New York.

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v.
THE UNION INDIA RUBBER COMPANY.
} In Equity.

Cross-Interrogatories to John L. Isbell, a witness for defendants.

The complainant objects to the 5th and 6th interrogatories in chief, because the same are leading.

1. Cross-Interrogatory. If you have stated that you have had a conversation with E. M. Chaffee about his extended patent, when and where was it; was it before the extension of the Chaffee patent in 1850, on the 31st of August, and after the 23d of May, 1850? State particularly the time and place, and what led to the conversation.

2. Did not Chaffee tell you that he had made a written contract with Goodyear to convey to him the extended term of his patent, should it be extended?

3. Did he not tell you that he was to have three thousand dollars for extended patent, and an interest in globe and carpet business of said Goodyear?

4. Did he show to you, or read to you a contract between him and Goodyear?

5. If you state that a conversation occurred between you and Chaffee after the extension, state whether he said he had made a written contract with Wm. Judson, and about said extension.

6. Did not any conversation you had with Chaffee, if you had any, relate to his contracts in writing, either with Goodyear or Judson, and did he speak of any other contracts than the contracts in writing between them?

7. If you say Chaffee said anything to you, state the place or places, time or times, when and where, who was present, what led to the conversation, and exactly, or as near as possible, what was said to and by Chaffee.

8. If you say the conversation was after the extension, did he not say that Judson had paid the expenses, and the licensees of Goodyear were to have a license to use the patent, if they paid the expenses to Judson, and paid an annuity to him, or words to that effect?

9. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? if yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Plaintiff,
1 Hanover St., N. Y.

John L. Isbell of Naugatuck, of the State of Connecticut, of lawful age, being duly sworn, deposeth and says as follows:

1st. My name is John L. Isbell; my age is forty years; I reside in Naugatuck, in the State of Connecticut, and I am a machinist by trade.

2d. I do not know Horace H. Day personally; I know him by sight, but never spoke to him. I know the agent of the Union India Rubber Company in Naugatuck; I do not know the officers of the said company in the city of New York; I have no interest in the said company.

3d. I have no interest in the patent obtained by Edwin M. Chaffee, for improvements in the preparation of india rubber for manufacturing purposes, dated August 31st, 1836, nor in the extension, nor any interest with the said Chaffee in any business.

4th. I am acquainted with Edwin M. Chaffee, and have been since the year 1844; he has been engaged in the india rubber business ever since I knew him.

5th. I have had a great many conversations with the said Chaffee in relation to the original patent, and one conversation with him in relation to the extension thereof. The conversation in relation to the extension took place in the Naugatuck India Rubber Company's mill. Mr. Chaffee stated to me the terms on which the application for the extension of the said patent was made; and said Mr. Goodyear paid the expense of the extension; and that it was made for the benefit of Goodyear and his licensees, who were to have the use of said patent. I do not remember that Mr. Chaffee said what was to be the benefit or compensation to himself, excepting that he said he was quite well satisfied with what he got for it. He said he did not rely alone upon Mr. Goodyear for the amount which he was to receive as a compensation for the extension, but that he relied upon Mr. Goodyear and his licensees.

6th. All the answer I can make to this interrogatory is contained in my answer to the 5th interrogatory, to which I refer as my answer to 6th interrogatory.

7th. There is no other matter or thing within my knowledge material to either party.

JOHN L. ISBELL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 29th day of September, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

Cross Interrogatories.—1st. I had a conversation with E. M. Chaffee about his extended patent, in the mill of the Naugatuck India Rubber Company, in Naugatuck; I cannot state positively whether this conversation took place after the extension of the patent, but I

am very certain it was after such extension, and after the twenty-third day of May, 1850. I introduced the conversation to ascertain the situation of Mr. Chaffee, with a view to the collection of a debt against him.

2d. He did not.

3d. He did not.

4th. He did not.

5th. He did not say he had made a written contract with William Judson, and about said extension.

6th. In the conversation alluded to, Chaffee did not speak of any written contracts with Goodyear or Judson; but said that the patent was renewed in his name for the benefit of Goodyear and his licensees.

7th. To this interrogatory, my answer is contained in the 5th direct interrogatory, and in the 1st and 6th cross-interrogatories—in which I stated all the conversation, and what led to such conversation, and I now state in addition thereto, that no other persons were present at said conversation.

8th. He did not say anything further than I have before stated.

9th. There is no other matter or thing within my knowledge material to either party.

JOHN L. ISBELL.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 29th day of September, A.D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

The counsel for the said defendants then read in evidence, subject to the objections taken by the complainant in the cross-interrogatories to the said witness, the deposition of David S. Damon, as follows; and to the decision admitting the same in evidence, the counsel for the said complainant then and there, in due time, manner, and form, excepted.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to be put to David S. Damon, of Northampton, in Massachusetts, a witness to be sworn and examined as a witness on the part of the defendants in the said cause.

1. What is your name, age, place of abode and occupation?

2. Do you know the parties in the above cause?

3. Are you acquainted with Edwin M. Chaffee, now of Providence, in the State of Rhode Island? If you answer in the affirmative, please state how long you have been acquainted with him, and whether you or your family are in any way related to, or connected with said Chaffee and his family, by marriage or otherwise.

4. Do you know anything concerning said Edwin M. Chaffee's patent for his improvements in the preparation of india rubber for manufacturing purposes, issued to him and dated the 31st of August, 1836, and extended for another term on the 31st day of August, 1850; and whether Charles Goodyear had the use of said patent the last part of the first term thereof; and whether said Chaffee was or not a part of said time in the employment of said Goodyear? and if you please, state for what part or portion of said term.

5. Did you ever have any conversation with said Chaffee concerning his application for the extension of said patent, in relation to who was at the expense thereof, and for whose benefit it was to enure, in case the same should be extended, or who was to have the use thereof after extended?

6. If you answer the last interrogation in the affirmative, please state particularly when and where your conversation or conversations with said Chaffee took place, and whether before or after the extension of said patent; and if said Chaffee said anything in relation to the extension of said patent, and the expense thereof, and by whom to be paid, and who was to have the use thereof when extended; and what was to be his, said Chaffee's, compensation, and by whom it was to be paid. If said Chaffee stated to you anything in relation to the matters referred to, please state particularly what he said, as you recollect the same.

7. If there is any other matter or thing relative to the matters inquired of, not previously stated, or any other matter relating to said cause, within your knowledge or recollection, please state the same as fully as if specially inquired after.

By J. B. STAPLES,
Solicitor for the Defendants.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
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THE UNION INDIA RUBBER CO. } In Equity.

Cross-interrogatories to David S. Damon, a witness for defendants.

The complainant objects to the 4th interrogatory, because the same is an attempt to prove the title of Goodyear to the original patent by parole, when the case shows that his pretended title was in writing.

To the 5th and 6th interrogatories, because they are leading.

1. Cross-Interrogatory.—If you say you had any conversation with said Chaffee in reference to the extension of his india rubber patent, state when it was, and if more than one, when and where each took place, who was present, what led to the conversation, what was said to him, and by whom, and what he said? State particularly, and state especially, whether it was before or after the extension; if before, how long before; if after, how long after?

2. If you have stated that you had a conversation with Chaffee prior to the extension, was it before or after the 23d May, 1850?

3. If you have said you had a conversation with Chaffee before the extension, in reference to his patent and the extension thereof, and who was to pay the expenses, and who was to be the owner thereof after the extension; did he not tell you that he had agreed to sell the extended patent, if extended, to Charles Goodyear, and that Goodyear was to pay the expenses of the extension, and pay him three thousand dollars, or some other sum, and give him an interest in the globe and carpet business, or words to that effect, or some part of it, or substantially that?

4. Did he not say that he did not wish to state the precise terms of the contract?

5. Did you know of, or ever see, a paper, a copy of which is annexed and marked "A," purporting to be made between Chaffee and Goodyear, the 23d of May, 1850; and did you not know or hear that such was the contract between Chaffee and Goodyear about the extension, or to that effect, and did you know or hear of any other contract than that before the extension?—and if so, when and where, and in what did it differ, when and where, and by whom was it made; was it in writing, and if so, will you produce a copy of it, if in your control? if not, state who had or has its custody.

6. If you say that Chaffee had a conversation with you after the extension of said patent, state when and where it was, who was present, what led to the conversation, what was said to Chaffee, and by whom, what Chaffee said, and particularly whether it was before or after the 5th of September, 1850, and whether it was before or after the 12th of November, 1851.

7. If you have spoken of a conversation between you and Chaffee, or by him in your presence and hearing, after the extension, did he not say he had made some contract with Wm. Judson about the patent, or the extended patent; did he not say it was in writing, and did he state the contents of the writing; did he say anything about Goodyear, and did he state any different contract than that contained in the written contract or contracts?

8. Were you at any time, or are you now in any way, connected with the Goodyear licensees; do you hold any stock in any of their companies, or have you at any time; have you seen and talked with Seth P. Staples, Esq., or any of the counsel for the defendants, or

any of the defendants, about the matters inquired about, and when and where, if anywhere?—state particularly.

S. BLATCHFORD,
Plaintiff's Solicitor.

David S. Damon, of Northampton, in the State of Massachusetts, of lawful age, being duly sworn, deposeth and says as follows:

1st. My name is David S. Damon; I am thirty-five years of age; I reside in Northampton, Massachusetts; I am a manufacturer of oil-cloth.

2d. I am not acquainted with Horace H. Day; I only know him by sight; I am acquainted with Mr. Hotchkiss, and partially with Mr. Shephard, officers of the Union India Rubber Company.

3d. I am acquainted with Mr. Edwin M. Chaffee, now of Providence, in the State of Rhode Island, and have been acquainted with him for some twelve years past; I married the cousin of the said Edwin M. Chaffee.

4th. I know that the said Chaffee had a machine of the kind mentioned in this interrogatory, and for which he had a patent; but I do not know the date of the original patent, or of the extension; I don't know positively that Charles Goodyear had the use of the said machine prior to the extension. In the spring of the year 1851 or 1852, I was visiting Mr. Chaffee in New Haven, and at that time I knew that he had disposed of his said patent to the said Goodyear and his licensees, and that he was at that time, and had been for some time previous, in the employ of the said Goodyear, and very soon after that he went to Providence; I cannot state more particularly about what portion of the time Chaffee was in the employment of Goodyear.

5th. Mr. Chaffee told me when I was at New Haven, as foresaid, that he had disposed of his patent to Charles Goodyear, and his licensees, and that there had been an extension of said patent, which extension had been made at the expense of Charles Goodyear, and for the benefit of the said Goodyear, and that Goodyear was to have the use of the said machine after the extension of the said patent. Chaffee reserving the right to use the machine for his own individual purposes, when he desired to do so.

6th. I had my conversation with Chaffee at his house in New Haven, in the spring of 1851 or 1852, as above-stated, and it was after the extension of the said patent. Mr. Chaffee told me that he was not able to get the said patent extended, that Mr. Goodyear had taken hold of it and got it extended at his own (Charles Goodyear's) expense, for which he was to pay him (Chaffee) I think ten thousand dollars, or about that sum in payments, I think of one thousand five hundred dollars down, and one thoasand five hundred dollars each year until paid; that Mr. Goodyear was to own the patent and the extension, and was to have the use and benefit of it;

the said Chaffee reserving the right to use the machine for his own individual purposes when he desired to do so. Mr. Chaffee at that time told me he did not know whether he would remain any longer in Goodyear's employ or not. Mr. Bourn, of Providence, was then there to employ Chaffee to go in his employ in Providence, and Chaffee soon after went to Providence. I was visiting in Mr. Chaffee's family, at that time, and remained there some three weeks.

7th.

D. S. DAMON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 2d day of October, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

Cross-Interrogatories.—1st. The principal conversation was at New Haven in the spring of 1851 or 1852, at the house of the said Chaffee; I do not remember of but one conversation with the said Chaffee about the extension of the patent; the conversation took place in the house, and some of the members of Chaffee's family may have been present, but I do not recollect the fact particularly; an inquiry as to the state of Chaffee's business affairs led to the conversation; the conversation which ensued is detailed in my answers to the foregoing 5th and 6th interrogatories, which is as full an account of the conversation as I can give, and I refer to the same as an answer to this part of this interrogatory; this conversation took place after the extension, but how long after I cannot say.

2d. I do not recollect that I ever had any conversation with Chaffee in regard to the extension prior to such extension.

3d. I do not recollect having any conversation with Chaffee concerning the extension of his patent, prior to the extension thereof; and, of course, Chaffee did not, previous to such extension, have any such conversation with me, as contemplated by this interrogatory. The only conversation I had with Chaffee on the subject was after the extension, and is detailed in the 5th and 6th direct interrogatory.

4th. Chaffee did not say that he did not wish to state the precise terms of the contract; but on the contrary, he seemed very free and willing to answer me all the questions I put to him on the subject.

5th. I have never seen or heard of any paper, or written or printed contract, of any description, between Chaffee and Goodyear, or between Chaffee and any one else, concerning his patent or business. (The witness looks at printed paper marked "A," and says I never before saw or heard of the paper marked exhibit "A.")

6th. The conversation with Chaffee after the extension of the patent took place in New Haven, at Chaffee's house, as detailed in my answers to the 5th and 6th direct, and the first cross-interroga-

tories, to which I refer as an answer to this interrogatory. The conversation took place in the spring of the year 1851 or 1852; but whether 1851 or 1852, I cannot now remember.

7th. In the conversation above spoken I do not remember that Chaffee mentioned William Judson's name in connection with the said patent, or the extension, nor did he say anything about any contract with Judson, or state the contents or terms of any such contract. He said nothing more about Goodyear than I have related in my answers to the 5th and 6th direct, and the first cross-interrogatories that I recollect, to which I refer as my answer to this part of this interrogatory.

8th. I am not now, or have I ever been, in any way connected with Goodyear's licensees. I do not, nor have I ever held any stock in any of their companies. I talked with Mr. Staples in his office, October 1st, 1855, for the first time, concerning the matters herein inquired about. Mr. Staples asked me if I had ever had any conversation with Mr. Chaffee in relation to the patents herein mentioned, and I told him what conversation I had with him, which conversation is detailed in the 5th and 6th foregoing interrogatories, which I refer to as an answer to this, which is the substance of the conversation I had with Seth P. Staples, Esq., concerning the matters inquired about.

D. S. DAMON.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 2d day of October, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY, Complainant,
v.
THE UNION INDIA RUBBER CO., Defendants.

I, Edward E. Cowles, a commissioner named in the annexed commission, do hereby certify, that in pursuance of said commission, I have caused William Rider, Jonathan Trotter, Charles B. Hotchkiss, John L. Isbell, and Daniel S. Damon, witnesses in the above-entitled action, to appear before me at my office, No. 4 New Street, in the City of New York, and I did first severally and publicly administer to the said witnesses an oath, that the answers given by them respectively in the annexed interrogatories proposed to them, shall be the truth, the whole truth, and nothing but the truth; then proceeded to the examination of the said witnesses alone (the counsel, parties, or agent of neither party being present), and caused the examination of each witness to be reduced to writing, and subscribed

and sworn to by him, and which was certified by me at the time, as appears by the jurat attached to each deposition.

And I do further certify, that the Exhibits, marked A, hereto annexed, were subscribed by the witnesses respectively and certified by me; and I have subscribed my name to each sheet of said deposition.

In witness whereof, I have hereunto subscribed my name this 13th day of October, A.D. 1855.

EDWARD E. COWLES,
Commissioner.

The President of the United States of America,

To Henry Dutton, Ex-Governor, Robert H. Osborn, Professor of Law, and Henry White, or either of them, all of New Haven,

[SEAL.] Greeting:

Know ye, That we, in confidence of your prudence and fidelity, have appointed you commissioners, and by these presents do give you and each of you, full power and authority diligently to examine upon their corporal oaths or affirmations, before you to be taken, and upon the interrogatories and cross-interrogatories hereunto annexed, Leverett Candee, of New Haven, Connecticut, as witness on the part of the defendants, in a certain cause now pending undetermined in the Circuit Court of the United States of America, for the Southern District of New York, wherein Horace H. Day is complainant, and the Union India Rubber Company is defendant. And we do further empower you or either of you, to examine in the same behalf and in like manner, any other person or persons who may be produced as witnesses before you; and we do hereby require you, or either of you, before whom such testimony may be taken, to reduce the same to writing, and to close it up under your hand and seal, directed to J. W. Nelson, Clerk of U. S. Circuit Court, New York City, as soon as may be convenient after the execution of this commission, and that you return the same when executed as above directed, with the title of the cause indorsed on the envelope of the commission.

Witness, the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, at the City of New York, this thirteenth day of September, in the year of our Lord one thousand eight hundred and fifty-five, and of our Independence the eightieth.

J. W. NELSON,
Clerk.

J. B. STAPLES,
Attorney.

The execution of this commission appears in certain schedules hereunto annexed.

HENRY DUTTON,
Commissioner.

Fees, includings, &c., $35 00.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories by the defendants to Leverett Candee, of New Haven, in Connecticut.

1. What is your name, age, place of abode, occupation, or business?

2. If you say you are in business, please state what kind of business.

3. If you state that you are in the manufacturing business, please state what kind of goods you manufacture, and of what materials, and how long you have been engaged in that business using such materials.

4. If you state that you are engaged in the manufacture of india rubber shoes and boots, and selling the same, please state, as near as you can, about the number of shoes and boots you have made and sold within the last six or seven years.

5. Have you used any patented improvements in your manufacture of shoes and boots, while you have been engaged in that business? If you answer in the affirmative, please state whose improvements you have used, and under what patents, and who was the owner of the patents, and from whom you obtained your license or licenses, and what other person or persons, corporation or corporations, or partnerships, if any, at the same time obtained a license or licenses the same as yours.

6. If you say you worked under a license from Charles Goodyear, granted to you and others at the same time, please state the names of the persons and firms, or corporations, who, at the same time, engaged in the manufacture of india rubber shoes and boots under said license or licenses, and whether each of said firms and corporations, and individuals, manufactured under said license or licenses on his or their own account, or how, if otherwise.

7. If you state that you obtained your license or licenses under which you and the other persons, firms and corporations, worked in the manufacture of india rubber shoes and boots, please state from whom you obtained such license or licenses, and if in writing, who signed the same, and if you say it was Charles Goodyear, who gave and signed said license or licenses; please state whether he, at that time, was the owner of Edwin M. Chaffee's patent for preparing india rubber for manufacturing purposes, without the use of solvents, dated the 31st day of August, 1836, and whether said license or licenses gave or included the right to use said Chaffee patent, or was then understood by the parties concerned, or how otherwise.

8. Have you the license and agreement on which it was founded, setting forth the terms on which the license was to be used, and how, and in what manner said Goodyear was to be compensated?

If you answer in the affirmative, please annex it to this deposition, but if you decline to part with the same, please to annex a true copy thereof. If you have not the original license and agreement, please state where it is, and in whose possession, if you know. If you have a copy thereof, which you know or believe to be a correct copy, please annex a copy to this deposition.

9. Have you and the other licensees been working under said licenses in the preparation of india rubber for the maufacture of shoes and boots, to the present time, and are you now using the same?

10. If you answer this last interrogatory in the affirmative, please state whether such use has not been with the knowledge and assent of E. M. Chaffee, down to the time of his alleged sale of said patent to the complainant, and whether any objection to such use was ever made within your knowledge by said Chaffee, until shortly before the alleged sale to the complainant, or how otherwise.

11. Was you consulted by said Chaffee or his attorney, or by any one on his behalf at any time, as to the application to the Commissioner of Patents for an extension of said Chaffee's patent as to the expense of such an application, and as to the expediency of making the same, and as to the terms on which you, and the others interested, would assume the expense of such application and pay the same without charge to said Chaffee, whether the extension was obtained or not? If you state that you was consulted as to the matters referred to, please state with whom, and when these consultations were had, and whether they resulted in any agreement on the subject, and what that agreement was, and with whom it was made, if within your knowledge, and whether you was a party to it. Please to state fully and particularly who were to bear the expense of the contemplated application, and that, whether successful or not, out of what fund these expenses were to be paid, and who was the agent to pay the said expenses, and how said Chaffee was to be compensated for his interest in the extended term of said patent. Please to state the arrangement and agreement on which such application was made fully, and whether the same was reduced in writing within your knowledge till after the extension was granted.

12. Was there or not a fund provided by the licensees of said Charles Goodyear and those working under his licenses, and using his and said Chaffee's improvements, to pay the expenses of sustaining and defending, extending and renewing said Goodyear's patents, and such as he was the owner of, or interested in, as his interests and the interests of those using his improvements might require? If you answer in the affirmative, please state who contributed to this fund, who was made the trustee thereof, and to whom the trustee was authorized and directed to pay the same, as it might be wanted from time to time by the agents, attorney, and counsel of said Goodyear, to defend, sustain, or uphold said Goodyear's interests in said pa-

tents; whether you are not now the trustee of said fund, and have not been such trustee since the death of Ackerman, the first trustee of the said fund; what amount of said fund was paid to Ackerman, while he was trustee, as aforesaid, and what amount you have received of said fund, and what amount had been paid out of said fund in defraying the expenses for which it was raised; what amount had Ackerman paid, and at what times did he make the payments; whether said Ackerman's book and account of his receipts and payments have not come to your hand, and whether you have not received, and whether you are not in possession of some book or account from him on the subject.

13. Have you any writings or contracts in your possession, or under your control, showing the purposes for which said fund was to be raised, if you say such a fund was to be raised, and who was to receive it, and who was to pay it out, and to whom, and for what purposes; if you have, please annex a copy of such contract, or agreement or agreements, to this your deposition; say, whether the same have been recorded in the Patent Office, and if you are not in possession of the original papers referred to? If you know, please state who has the possession thereof, and where the same may be found.

14. If you say you paid said fund, or any part thereof, to Wm. Judson, Esq., the agent and attorney of the parties interested in the extension of said Chaffee patent, from said Ackerman or his administrator or executor, showing what funds he received, and to whom and when he paid out the same; and, if you have such account, please annex a copy thereof to this deposition; and if you succeeded said Ackerman, as the trustee of said fund, please state what amount you have received, and if you have made payments out of said fund, please state how made, and to whom you have made such payments, and when, and on what account. If you have an account of such receipts and payments, please annex a copy thereof to this deposition. Please state the amount of such payments, and when the same were made, and whether said Judson has been reimbursed the money he paid out as expenses incurred in the prosecution of the application of said Chaffee for the extension of said patent, or how otherwise said expenses have been provided for or paid.

15. Has said William Judson ever been called on to render his account of the expense or expenses of obtaining said extension of said patent, and has he rendered such account, and what is the amount thereof, and will you annex a copy thereof?

16. If said Judson has not rendered such account, do you know the reason why?

17. Do you know that said Judson has been ever called on to render said account, and when, and by whom, and how often?

18. Do you know of any meeting soon after the extension of said patent was granted, or at any time when William Judson was present with said Edwin M. Chaffee, at which meeting a writing was pro-

duced, purporting to contain the terms on which said extension had been procured, and the compensation that should be made to said Chaffee for his interest in the extended term of said patent? If you answer in the affirmative, please state when and where said meeting took place, and what was then done, and whether any writing was then made in relation to said subject, and signed by any one, and if so, by whom.

19. Do you know of any other matter or thing material relative to the matters aforesaid, not before stated by you? If yea, please to state the same.

Interrogatories on the part of the defendants in said cause by

T. B. STAPLES,
their Solicitor.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

Cross-Interrogatories of complainant to Leverett Candee, a witness for defendants.

1. Were you a witness in the case between Horace H. Day and Isaac Hartshorn, tried in Providence, Rhode Island, last winter, and did you testify in said cause, and if so, by which party were you called.

2. If you say in answer to the last cross-interrogatory that you were a witness in said cause, at Providence, mentioned in the first cross-interrogatory, will you look at the annexed papers marked "A," which purports to be a report of your testimony in that case, and state whether the same is a true report of the questions put to you, and the answers given by you; whether they are true, and if not correct or not true, wherein not correct or not true.

3. Whether the contracts, agreements, and arrangements, about, and creating a trust fund, and its purposes, and the mode and purpose of its application, mentioned in the 12th interrogatory in chief, were not in writing, and will you produce them?

4. If you say you were appointed trustee of said fund, was your appointment in writing, and will you produce the writing, if such a one exists, and if in your possession, and if not in your possession, where is it? If you produce it, and it is a paper contract, annex it, or a copy; if it is in a book, produce the book before the commissioner, and have him so mark it, that it can be used as evidence in the trial of this cause, and annex a copy thereof to your deposition.

5. You are, in the 12th interrogatory in chief, inquired of as to the amount paid out of said fund: answer whether said Ackerman and yourself kept books in reference to said fund, and the payment

of money; and if so, what books?—state particularly what books; whether you have not the custody of the same, and if such books exist, will you produce the same, and have them either annexed to your answers, or identified and marked by the commissioner, so that they can be used in evidence in this cause, and annex copies, if you have not already annexed a copy?

6. If, in answer to the 12th interrogatory in chief, you say that receipts or papers are in your custody, showing how the said trust fund had been paid out, please produce all such receipts and papers, and annex them to your deposition; and if you refuse that, annex copies, if you have not already annexed them in your answers to the interrogatories in chief.

7. If you have any drafts in your hands or control showing the disposition of said trust fund, or any part of the same, will you produce all such drafts, and either annex them to your answer, or copies thereof, if not before annexed, and have them so identified and marked by the commissioner, that they can be used as evidence in this cause?

8. If you say, in answer to the 14th interrogatory in chief, that you made any payment to William Judson out of said trust fund, if you took receipts for the same, or paid the same on drafts, annex a copy of the same to your deposition.

9. Whether there are in your possession or control, any drafts signed by Seth P. Staples and William Judson, or William Judson, on which any part of said trust fund was paid, whether you received them among the papers of said Ackerman or otherwise, produce them and have them annexed, or copies annexed, and the originals identified and marked by commissioner, if you have not done so before.

10. Whether the title of Charles Goodyear to the original Chaffee patent, if you say you think he had any, was not in writing, and whether all Goodyear's licenses were not in writing, to you and others, if you say there was any.

The complainant objects to the proof by the witness of contract, agreement, license, account, or writing, which is shown to be in writing, by parole, and will insist that the same shall be produced.

11. Look at the paper annexed, and marked "B," purporting to be agreement to license you and others under the Chaffee patent, signed by William Judson, and state whether you have, or know who has the custody of the original, and if it is in your custody or control, produce it, and annex it to this deposition; and if you refuse to annex the original, annex a true copy, and have the original identified and marked by the commissioner, so that it can be used in evidence in this cause.

12. Look at paper marked "C," annexed to these interrogatories, purporting to be an agreement between yourself, William Judson and others, and the Malden Manufacturing Company, and state whether such a paper was made and signed by you; whether the annexed is

a true copy thereof, and who has the original; and if you have it, annex it, or produce it, and have it marked by commissioner, so that it can be used in evidence on the trial of this cause.

13. Was any such license or licenses ever made, as is named and agreed to be made upon the first of June, 1853—the paper signed by William Judson, dated May 25th, 1853, a copy of which is here annexed, marked "B?"

14. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this, your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Plaintiff,
1 Hanover Street, N. Y.

The following exhibit, marked "A," was annexed to the commission, but was not read by either party at the hearing.

"A."

Leverett Candee, sworn and examined by Mr. Brady.

Q. Where do you reside, and what business are you now engaged in?

A. I reside in New Haven, and am engaged in the mrnufacture of india rubber shoes.

Q. You belong to the corporation of L. Candee & Co., a company which is one of the shoe associates?

A. Yes, sir.

Q. How long have you been connected with the manufacture of india rubber goods?

A. I think I commenced the shoe business in 1843.

Q. When was the corporation of L. Candee & Co. formed?

A. About three years ago. Previous to that, business was done under a special copartnership in my own name.

Q. Where is Charles Goodyear's domicile?

A. I understand it was in Paris the last I knew about it.

Q. He is now in Europe?

A. Yes, sir.

Q. Where did he reside before he went to Europe?

A. In New Haven.

Q. How long did he reside there?

A. A number of years.

Q. When did he go to Europe?

A. I think it was a year ago last June.

Q. Did Chaffee reside in New Haven at any time, and if so, how long?

A. I think he resided there in 1850, and perhaps a year or two previous.

Q. In August, 1850, what was his occupation?

A. I think he was in the employment of Goodyear.

Q. Through the whole year?

A. I should think not through the whole year, but previous to September, 1850.

Q. At New Haven?

A. At New Haven and Naugatuck; at either or both places, when Goodyear was carrying on experiments.

Q. When did you first learn from any source that it was intended to apply for an extension of the Chaffee patent?

A. It was a few months previous to the application.

Q. From whom did you learn that it was to be applied for?

A. Mr. Goodyear held a conversation with me upon the subject of making arrangements with Chaffee for its extension.

Q. Goodyear and you conferred upon the subject of obtaining the extension, and making arrangements with Chaffee for what?

A. For the extension of the patent.

Q. Did you know anything about an agreement of May 23, 1850, made between Goodyear and Chaffee for the extension right, before or after it occurred?

A. It was in relation to that, that I had the conversation with Goodyear. He either stated to me that he had or ——

Mr. Richardson.—Stop!

Q. You did not see the agreement itself?

A. I do not recollect of seeing it.

Q. Did your company, as one of the shoe associates, agree to procure the extension—unite in it?

A. We did not enter into any formal agreement.

Q. I do not mean an agreement in writing; did they assent to it? Did you aid in procuring any testimony for the extension?

A. No, sir.

Q. Were you present at the examination of Dr. Howe in behalf of that extension?

A. Yes, sir.

Q. Where was that?

A. At Derby, Ct.

Q. About when?

A. In August, 1850.

Q. Who went with you on that occasion?

A. Mr. Judson.

Q. You went from New Haven?

A. Yes, sir.

Q. Who paid the expenses on that journey?

A. I paid the expense of horse and carriage; there was not much expense attending it.

Q. Was Dr. Howe examined in behalf or against the extension?
A. He was against it, I understood.
Q. Who appeared for Goodyear and his licensees?
A. Mr. Judson.
(Objected to as assuming that Goodyear and his licensees were there.)
Q. Mr. Judson appeared there for somebody?
A. He was there at the examination.
Q. Do you know for whom he appeared?
A. He appeared on the part of those in favor of the extension.
Q. Do you know who they were?
(Objected to.)
The Court. It has been admitted.
A. Mr. Goodyear and his licensees.
Q. Who appeared on the other side?
A. A gentleman by the name of Gifford, from New York.
Q. Well, the testimony of Dr. Howe being taken, had you personally anything more to do with the extension proceeding?
A. No, sir.
Q. Were you at New Haven on the 5th of September, 1850?
A. Yes, sir.
Q. Did you see Judson, Chaffee, and Woodman there?
A. Yes, sir.
Q. Where did you see them?
A. I saw the three together at the house of Mr. Chaffee.
Q. What were they doing?
Mr. Richardson. State what you expect to prove.
Mr. Brady. That they were engaged in preparing some papers.
Q. What was the general business?
A. To execute a conveyance.
Q. Never mind—a paper?
A. Yes, sir.
Q. Did you know Chaffee well at that time?
A. Yes, sir.
Q. Do you know Chaffee's writing?
A. I have seen it frequently.
Q. Did you receive that letter (handing him a letter) from Chaffee; if so, when?
A. I received that from Mr. Chaffee on the 6th of September, 1850.
Q. Whose indorsement is that on the back?
A. It is mine.
Q. What is it for?
A. It is my file mark.
Mr. Brady proposed to read the paper, but the Court thought it had better be introduced after the paper of the 5th of September is presented.

Q. Did you see Chaffee much after that time?
A. I used to see him occasionally.
Q. At New Haven and elsewhere?
A. At New Haven generally.
Q. Do you know when he removed to Providence?
A. I do not.

Mr. Candee recalled and examined by Mr. Brady.

Q. On the 5th of September, 1850, were you at Mr. Chaffee's house?
A. Yes, sir.
Q. What time in the evening did you go there?
A. We went there the fore part of the evening.
Q. Whom did you see there?
A. I went there with Mr. Judson; when we arrived, Mr. Woodman and Chaffee—
Mr. Jenckes. What is the object of this testimony?
Mr. Brady. To contradict Mr. Woodman.
Mr. Jenckes. On what point?
Mr. Brady. In regard to the evidence you have produced of what you call fraud.
Mr. Jenckes. If you make your case on this point, you must put in the whole of your defence.
After some further discussion upon this point, the Court thought the defendants ought to wait, and put in all their rebutting testimony at the same time.
So this part of the testimony was reserved.
Q. Do you know Mr. Chaffee's handwriting?
A. Yes, sir.
Q. Look at these receipts and say if you think they are signed by him?
A. (Examine them). Yes, sir, they are.
Mr. Brady offered to read the receipts.
Mr. Richardson objected, that they were no evidence of the payment of money.
After some discussion—
The Court said: Mr. Chaffee is to be put on the stand, and then, of course, you can inquire about them.
Q. That receipt is a receipt to you: did you pay the money mentioned in it to Mr. Chaffee?
A. (Looking at it), I did.
Mr. Brady read the receipt dated September 19, 1850, from three of the shoe associates, of $375 each, making $1125, being in advance of an agreement between Judson and Chaffee.
Q. There is another receipt to you; was that money paid by you to Mr. Chaffee?
A. Yes, sir.

Mr. Brady read the receipt dated Oct. 7, 1850, from Mr. Candee, of $375, being the proportion of the Hayward Company of an advance of $1500 to Chaffee.

The other receipts were reserved, to be given in evidence when Chaffee was examined.

Q. Was that $1500 all paid up to Chaffee?

A. Yes, sir.

Q. Who paid it of your knowledge?

A. The $1500 was paid by the four shoe associates.

Q. As an advance on that contract?

A. As an advance on that contract.

Cross-examined by Mr. Richardson.

Q. You say the whole of the $1500 was paid; I want to know your means of knowledge on that subject; did you pay it yourself?

A. I paid three-quarters of it, I think, through my hands; I think the whole of it went through my hands; I took a receipt for three-quarters of it.

Q. Are you certain that the other quarter was ever paid?

A. Yes, sir.

Q. Did you see it paid?

A. I am certain it is paid. I think it was paid in this way: by a draft by me on Mr. Ford—that is my impression; and that draft was paid. I did not see the money handed over.

Q. A draft drawn by you on Mr. Ford?

A. I think so.

Q. Mr. Ford is a licensee?

A. Yes, sir.

Q. You drew a draft on him?

A. I think I did, or wrote him.

Mr. Candee recalled and examined by Mr. Brady.

Q. I ask you whether Mr. Goodyear has received, or whether any one has received the tariff of half a cent per pair, under the paper of February, 1851?

A. That has been paid to Mr. Goodyear semi-annually, *reserving the* 15 *per cent for his counsel.*

Q. For the trust fund?

A. For the trust fund.

Cross-examined by Mr. Richardson.

Q. How do you know Goodyear has received it?

A. I paid it myself—a considerable portion of it. I have the books which have the entries.

Q. He receives about a half a cent?

A. A half a cent.

Q. There is 15 per cent. of that reserved?

A. That is appropriated to his counsel.
Q. To Judson?
A. To Judson.
Q. To whom did you pay the 15 per cent.?
A. To Judson; he has received it.
Q. Are you the treasurer of these four associates now?
A. Yes, sir.
Q. And the trustee?
A. Yes, sir.
Q. Is Mr. Ackerman dead?
A. Yes, sir.
Q. When did he die?
A. About a year since.
Q. What was his first name?
A. Jonathan C.

Mr. Candee recalled and examined by Mr. Richardson.

Q. Have you the original of which this is a copy?
A. No, I believe not.
Q. Where is it?
A. I cannot tell you.
Q. Did you receive it by Mr. Ford in a letter?
A. The original.
Q. Of which this is a copy.
A. It is possible I did, but I do not know at this moment.
Q. Did you have it at the time the motion for an injunction was heard against you in Connecticut?
A. I believe it was among the papers.
Q. Who had the custody of the papers?
A. Mr. Baldwin had them; some were in my possession; I cannot say but that is in my possession now.
Q. Haven't you seen it since this trial commenced?
A. No, sir.
Q. Haven't you delivered it to Mr. Judson?
A. No, sir.
Q. To Mr. Brady?
A. No, sir.
Q. Not at any time?
A. I do not recollect of delivering any papers during this trial.
Q. At any time have you delivered it to them?
A. I have no recollection of it.
Q. And you don't know where the paper is?
A. I do not; I don't know but it is among my papers; I don't know but it is in New Haven, and I don't know but it is in my carpet bag; I cannot say.
Q. Look at that paper (handing him another paper), and tell us where the original of that is?

A. This is the Malden license; it is in the same predicament as the other.

Q. What predicament is that in.

A. I cannot tell you whether it is in my possession or whether it is not.

Q. Does not the custody of it belong to you?

A. If it belongs to me it is among the associate papers, which are probably now in New Haven, but I cannot say; I do not think I have ever read the license through.

Q. You signed it without reading it?

A. I should think I did; can't say particularly.

Q. Don't you know but you did read it?

A. I don't know but I have; I have not any particular recollection of it now; I know there is a Malden license.

Q. And that you have had the custody of it, haven't you?

A. I cannot say that distinctly.

Q. Don't you know it is in your valise now at the hotel?

A. No, sir, I do not.

Q. You may go and see?

A. I didn't look in it.

Q. Will you go and look in it?

A. Yes, sir, if you will go with me.

Q. I will take your word for it when you get back.

A. I would like your company; I have no objection to going to look and see.

The witness then proceeded to the hotel; and, in the mean time, the counsel for the defence called and examined Mr. Horsford, after which the witness again took the stand.

Q. Have you got those papers?

A. I have the papers which I have brought with me.

Q. Have you found the original?

A. I expect that is it (producing it from the bundle).

Q. Was that executed in your presence?

A. I cannot say; I am not a witness to it.

Q. It is in the handwriting of Judson, is it not?

A. I should think it was.

Q. Was that the original paper delivered to you?

A. It appears to be.

Mr. Brady objected to the reading of the paper, as irrelevant.

The court permitted it to be read.

Mr. Richardson read the paper, being the agreement to license certain parties, dated May 25, 1853, recorded July 11, 1853, in which Judson claims that the title of the Chaffee patent is vested in him.

Q. Did you find the original of the other paper?

A. No, sir.

Q. Have you made all the search you can for it?

A. Yes, sir, I have made all the search I can in Providence for it. There are all my papers that I brought.

Q. You haven't got it?

A. I cannot find it among them.

Q. Did each of you have a copy of the Malden Company paper?

A. I cannot say.

Q. Were there not several copies made?

A. I do not know that there was one copy made.

Q. Do you know that there was ever such a license given?

A. I suppose these was.

Q. Didn't you sign it?

A. I think I did; (looking at the paper) I should think very probably I signed the license.

Q. You don't know where the paper is?

A. No, sir.

Cross-examined by Mr. Brady.

Q. In what capacity did you receive these papers and have the custody of them?

A. In the capacity of trustee of the shoe associates.

Q. These papers always remained in your possession?

A. I presume so; when I was appointed successor to Mr. Ackerman, I believe the papers were handed over to me.

Q. Have you kept personal possession and control of them?

A. These that were delivered to me from Mr. Ackerman were kept in my possession.

Q. And during this trial you have kept all these papers yourself; have they been out of your possession to anybody?

A. These? Not at all.

Mr. Candee recalled and examined by Mr. Brady.

Q. You have heard read just now a letter addressed by you to Mr. Ford, in September, 1850; have you the original?

A. I do not know that I have it.

Q. Where did you write it?

A. My impression is, that I wrote a letter to Mr. Ford, in New Haven.

Q. What did you do with that?

A. I think it was handed to Chaffee.

Q. Had you had an interview with Chaffee before that about the payment of the $1500?

A. I had a consultation with somebody about it; I think it very probable that I might have had a conversation with him about it.

Q. How came you to give that letter to Chaffee?

A. For the purpose of getting $375 from Mr. Ford for Chaffee's benefit—one-quarter of the $1500 advance to go to Chaffee, as I recollect.

Q. Who first applied to you to make that payment—that advance?

A. I have been trying to refresh my memory upon that subject, in regard to the first suggestion of that advance, and I cannot come to anything very satisfactory in that respect, whether it was suggested by Chaffee, Judson, or Hutchinson; my impression about it is, that it was suggested in New York some few days after the contract of the 5th of September.

Q. This paper that has been given in evidence—the draft which you drew for that quarter of the $1500—is it all in your handwriting?

A. Yes, sir, that is my writing.

Q. What do the letters "C. E. C." mean?

A. Chaffee extension contract.

Q. Do you know the writing of Hutchinson? (handing him a paper).

A. I should say that is his writing.

Q. You heard of this extension being granted how soon after?

A. I should think Mr. Judson first informed me of it.

Q. What day?

A. About the 5th of September.

Q. At New Haven?

A. That is my impression.

Q. You went with Judson to Chaffee's house on the evening of that day?

A. Yes, sir.

Q. When, on that day, did you first see Judson?

A. In the course of the day, I cannot tell what part of the day I saw him; he called at my office in New Haven before I went to Chaffee's house.

Q. Did he confer with you about getting that agreement?

A. Yes, sir, he spoke to me upon the subject.

Q. Tell us what occurred?

A. He spoke upon the subject of having the renewal transferred to him, to stand in his name, to be holden for the benefit of Goodyear and others interested—the licensees. I asked him, why not take it in the name of Goodyear, agreeably to the contract which was existing between the two—between Chaffee and Goodyear—of May. He replied, he thought it would be better for all parties to take it in the manner in which he proposed to take it; that he had had some conversation with some of the associates in New York upon the subject, and it was their view. He had with him, I believe, a draft of a conveyance which he proposed to have executed, or stated the substance of one to me, in which he was proposing to give Chaffee $1200 a year during the extension of the patent, and take a transfer in his name as he had suggested. In the evening we went.

Q. State whether you assented to it.

A. Yes, sir, I assented to it.

Q. In the evening you went to Chaffee's house; state now to the jury all that occurred at Chaffee's house from the time you went there till you left, according to your best recollection, just as the events happened there.

A. According to my best recollection, after we got into the house we found Woodman and Chaffee there, and Judson very soon opened the object of his call, which was to take a conveyance of the extension, proposing to give Chaffee $1200 a year during the life of it, to be paid quarterly. Chaffee seemed to think that he ought to have that pay increased to $1500, and upon that point there was some discussion between them, as to whether it should be $1200 or $1500 a year. After discussing it between themselves for some time, I suggested to Judson that I thought it was not best to stand for the difference—that he might as well allow Chaffee the $1500 a year, and on that suggestion he verbally agreed to it; and after that they drew up and executed the instruments and signed them, it being understood, instead of altering the instrument, as Judson had one with him, or a copy of one which he proposed to have filled up, that Chaffee should be allowed $1500 per annum, during the life of the extension. The sum of $1200 was not altered in the instrument, but that was verbally understood.

Q. What further occurred at that interview?

A. I cannot state any very particular occurrences that I recollect—nothing very impressive upon my memory in regard to what took place; we spent some of the time in a pleasant social way, and came away about ten o'clock in the evening, I think.

Q. What part did Woodman take in that conversation?

A. I think he took the part of Chaffee there, and advocated the allowance of $1,500 a year.

Q. Was anything said there about security to any body?

A. Not a word in my hearing: and I think if there had been I should have heard it.

Q. Was anything said about the fee of this patent remaining in Chaffee, or anything of that character or description?

A. I do not recollect any such thing.

Q. What objection, if any, did Chaffee make to executing that contract?

A. I do not recollect that he made any objection to executing the contract; I cannot bring it within my recollection.

Q. Was anything said by anybody to the effect that Judson would see the licensees, and see that they took their licenses under that paper?

A. I do not remember anything of that kind.

Q. What was said about the payment of that $1500, as to its being what they call a bonus or advance of payment, and who were to pay it, as you recollect and believe it to have occurred?

A. I do not believe there was one word said about a bonus or

about the advance of that $1500 that evening. The first of my hearing it was in Chaffee's affidavit at Hartford, in the fall of 1853.

Q. How soon after the execution of the agreement was the subject of making this advance of $1500 mentioned in your presence?

A. I should think that took place in New York a few days afterwards. My impression is that the associates were present—most of them at any rate.

Q. You drew a receipt the 17th of September, for $1125, which Chaffee signed and I read in evidence?

A. I drew the receipt.

Q. Had Judson anything to do with that receipt or the drawing of it in any way whatever?

A. No, sir. I consider myself competent to draw a receipt.

Q. Was the language yours entirely or exclusively?

A. Yes, sir.

Q. You drew it according to your own idea?

A. Yes, sir.

Q. At Chaffee's house on the 5th of September, after the papers were signed, did Goodyear come into Chaffee's house, or did you see Goodyear that night at all?

A. That is another point on which I have tried to refresh my recollection. I cannot recollect of Goodyear's being in the house while we were there; my impression is that he may have rode up as we came away from the house, but I cannot recollect of his being in the room while we were there.

Q. Did you see him that night at all?

A. I should say not.

Q. You was intimate with Goodyear at that time?

A. Yes, sir.

Q. How soon after the 5th of September did you see him?

A. I should think I seen him within a few days after that—possibly the next day.

Q. Did you have any conversation with him about this agreement of September 5th?

A. Yes, sir.

Q. What was it?

A. The first time I saw him after the conveyance was made, he called at my office in New Haven, and I stated the manner in which it was done and the objects for which it was done—that it was thought better to have it stand in the name of Judson, as trustee, and to have it in his name for certain purposes; and I stated, I think, in substance, that I did not think he ought to blame Chaffee for it. "Well," he said, "that is all well enough so far as the transfer is concerned, but it is no apology for Mr. Chaffee."

Q. What more did he say, if anything?

A. I do not recollect what else was said particularly; that is about the substance.

Q. When did you first see Chaffee after the 5th of September?

A. I received a letter from him the next morning.

Q. When did you personally see Chaffee?

A. I cannot say as to that; I have seen him very frequently; I cannot say particularly whether I saw him a day or a week afterwards.

Q. When did you first in your life, from any source, learn that there was any pretence on the part of Chaffee that that paper executed that night was to be a security, or was obtained by any unfair means?

A. I cannot state the time, but it is since some of these prosecutions have been commenced by Mr. Day.

Q. Since Day took the transfer?

A. Since that, I think I must have got it from some deposition or some reports.

Q. Before that, had you ever heard or learned in any way from any source that there was any such pretence by anybody at any time?

A. Being made as security?

Q. Yes, or under unfair circumstances?

A. I never did. If I might be allowed to remark, I will state that if that had been the case, while I was in Chaffee's house that evening, I should have interposed and objected to an arrangement of that kind, and prevented it if I could.

Q. Mr. Chaffee says on the stand that Judson told him Goodyear was poor, and exhausted his funds, and that he knew he was poor; what was the fact about his being poor at the time?

Objected to as incompetent.

Mr. Brady said he wished to contradict Chaffee's testimony on the direct.

After a little discussion, the objection was withdrawn.

Q. What were the pecuniary circumstances of Goodyear at that time? What income was he receiving, of your knowledge?

A. I should think his income from the shoe tariffs (I must speak from the best impression I have; I have no data now to refer to) was as much as eight or ten thousand dollars a year in 1850, and perhaps more.

Q. Where was he living?

A. In New Haven.

Q. What was he engaged in doing generally?

A. Experimenting, I believe, in his rubber.

Q. Was there any receipt taken twice for the same payment to Mr. Chaffee?

A. No, sir; if there were, they were duplicates. I do not recollect of any duplicates; I do not think there were any.

Q. They have asked Chaffee about a negotiation between the shoe associates and him with a view to separate him from Bourn & Brown;

were you the party who conducted that negotiation on the part of the shoe associates?

A. Yes, sir.

Q. When did it commence and when did it cease, if ever?

A. Mr. Hayward and myself were appointed a committee, and that appointment you will find upon the record book, that may give you the date.

Q. Is this it? (exhibiting a book).

A. Yes, sir.

Q. "July 9, 1852, Friday afternoon;" you and Hayward were appointed a committee for what purpose?

A. I think the resolution will put it in better language than I can.

Q. (Reads the resolution.) Is that the resolution under which you acted?

A. Yes, sir.

Q. When did that negotiation cease, if ever?

A. That negotiation ceased (I believe you have my letter on the record which states it) in September, 1852, I think it was.

Q. What was the reason it broke off?

Mr. Jenckes. It is in writing.

Mr. Brady. I ask what reason, without reference to any writing —what the reason in fact was.

Mr. Richardson objected to bringing out a reason—only the fact.

Q. Is that a letter you received in the course of the negotiation with Chaffee? (handing him a letter).

A. Yes, sir.

Mr. Brady. There is a letter which has not been put in; the letter they refer to is of the 16th of February, 1853, from Candee to Chaffee—"Your favor of the 14th is received; I must refer you to Judson & Hayward, as I have had no part in your negotiation between you."

Witness. That is not the letter I referred to. It is a letter about the middle of September.

Mr. Brady then put in a letter dated August 25, 1852, from Chaffee to Candee; and another, dated September 25, 1852, from Candee to Chaffee, withdrawing all propositions touching the matters relating to the conversation and proposals aforesaid.

Q. That is the letter you refer to?

A. That is the letter I refer to.

Q. In that letter you say, "In consequence of what has occurred;" what had occurred?

Objected to as a side issue.

Mr. Brady said if any use was to be made of that question of the negotiation being broken off, he wanted to vindicate his side.

The Court. That is not to be made a question as I understand.

Q. Was there a payment to Chaffee of $250—besides the receipts that have been given in evidence here?

A. Acting committeewise with Chaffee, we drew up, on the 15th of July, an agreement between ourselves, stipulating to increase Chaffee's pay somewhat—the quarterly payments; and on that instrument he drew on me $250.

Q. What time was that?

A. The 1st or 2d of September, 1852; and I paid his draft of $250.

Cross-examined by Mr. Richardson.

Q. Was not the $250 drawn on account of this proposition that had been made in writing with Chaffee, in relation to the $5000, he expecting to carry it out.

A. It was drawn on that agreement.

Q. The agreement was not completed, was it?

A. It was not signed; it was left open for consideration.

Q. And then you wrote a note, withdrawing?

A. Yes, sir.

Q. After he drew the money?

A. Yes, sir.

Q. That was the purpose for which the money was drawn and the draft paid?

A. The money was drawn under that agreement—the $250.

Q. And the draft paid on that account?

A. Yes, sir.

Q. Here is a book from which something has been read; what book is that?

A. It is a book of records and minutes of the shoe associates.

Q. Have they any other books?

A. Yes, sir.

Q. Got them here?

A. Yes, sir; that is an account book.

Q. In relation to the pecuniary circumstances of Goodyear, don't you know that he was very much involved in debt in 1850?

A. I suppose he was owing—I don't know how largely.

Mr. Brady here produced the draft of the $250—in order to fix the date, which was September 1, 1852.

Q. Were there any judgments against him to your knowledge, uncollected and unpaid?

A. I do not know that there was.

Q. Don't you know there were various outstanding judgments against him in New York?

A. No, sir.

Q. How were his circumstances when he left this country? Wasn't he largely in debt?

A. When he left for England I know he paid off considerable indebtedness at New Haven.

Q. Did he pay all up?

A. I cannot say whether he paid all up.

Q. Wasn't he always, while in New Haven, very much involved?

A. I do not think that he was very much involved while living in New Haven; he was receiving a great deal of money, and paying out a great deal. I do not know of any judgments against him; I didn't keep his books.

Q. In 1850 hadn't he overdrawn, and was he not indebted to the associates?

A. I do not think he was ever indebted to the associates as such.

Q. He was in the receipt of eight or ten thousand dollars you say; do you mean that on his tariffs to the associates?

A. I meant when I said that, that in 1850 I should place his receipts that year from eight to ten or twelve thousand dollars; it has been more since that.

Q. Don't you know that he was arrested in Boston on executions, just before he left for England.

A. I heard he was.

Q. Don't you know that he was arrested in Boston in 1850 for debt, more than once during the year.

A. I recollect of hearing that he was arrested in Boston.

Q. Don't you know he drew drafts immediately after going to England, upon William Judson, which were protested?

A. No, sir.

Q. Did he draw any on you?

A. Yes, sir.

Q. Did you pay them?

A. Yes, sir.

Q. Didn't he draw some that you didn't pay?

A. No, sir.

Q. Were there not drafts there on Ford that were protested?

A. I cannot say; in regard to me, he drew on me once at six days, and I did not accept it; but when the draft matured I paid it; and so far as that is concerned, I have been in advance to Goodyear myself.

Q. Don't you know that from the earliest time up to the time he left for England, Goodyear has been involved and been poor? No matter what his income has been, has not that been the fact?

A. I cannot state specifically about his obligations. I know he is a man that has been loose in his business, and it is said that he has been considerably in debt, owing a great deal of money; it may be said so now; but he has always been in the receipt of a good deal of money, and when he has it he always seems to be very much inclined to pay his debts.

Q. Did you ever know him to get enough to pay them on any occasion?

A. In answer to your inquiries I must state something from hearsay, or I cannot give an answer.

Mr. Richardson. I suppose that he can only state as to his solvency and general reputation.

The court suggested that he should hardly know which position the plaintiff had better take in regard to Mr. Goodyear's financial circumstances, and perhaps the counsel had better change points.

Q. You have said that you now take the place of Mr. Ackerman?

A. As trustee; yes, sir.

Q. Was there a vote passed by the associates at any time in reference to certain drafts to be drawn by Judson alone, instead of by him and Staples?

A. I am under the impression that that was done in a different way.

Q. Haven't you the vote on the book here?

A. I have examined the book to see, but I apprehend not. I think that was done in a different way; I think that authority is in manuscript and on file. Still, it may be in the book.

Q. Do you recollect making an affidavit about that in Connecticut.

A. I do not.

Q. You think it was not done by a vote?

A. I think not. I think that is a paper on file.

Q. Have you got the paper?

A. I do not think I have.

Q. What year was it that the associates agreed that the drafts that had been drawn by Judson alone, should be treated in the accounting as if Staples had signed them too?

A. I cannot recollect what year it was.

Q. Look at that and see if it is a copy of the paper? (handing him a paper).

A. I presume that is a correct copy.

Q. There was such an agreement as that, was there?

A. Yes, sir, I think there was.

Q. Did you exhibit in court in New Haven certain drafts drawn by Judson alone, on Mr. Ackerman?

A. I have no recollection of it.

Q. No recollection of there being any drafts exhibited there?

A. Not of Judson's; I have no recollection of any drafts except Chaffee's upon Judson.

Q. Don't you recollect that your counsel first put in that contract, and then you put in certain drafts drawn by Judson alone, in 1850?

A. I do not recollect it; if it is so, perhaps my affidavit at that time will show it.

Q. Have you got any drafts in your possession drawn by Judson?

A. No originals; I do not know that I have any drawn by him.

Q. Any drawn by him, and Staples together?

A. I do not think I have; I am sure I have none drawn by him and Staples.

Mr. Richardson here read the resolution of the associates allowing the drafts heretofore made by Judson as good.

Q. Did all the papers of Mr. Ackerman come into your hands?

A. I suppose they did.
Q. You have looked amongst them for that purpose, I suppose?
A. No, sir.

("B.")

In consideration of one dollar to me paid, and of other valuable considerations received of Leverett Candee, the Hayward Rubber Company, Ford & Co., and the Newark India Rubber Manufacturing Company, I hereby agree to execute formal grants or licenses to each of the aforesaid parties, of the right to use the improvements secured by letters patent to Edwin M. Chaffee for dispensing with the use of solvents in the preparation and manufacture of india rubber, or caoutchouc, which patent has been extended for seven years from the expiration of the same. The title to which patent, as extended, is now vested in me, and said grants shall be made out and executed and delivered to the parties above-named, on or before the first day of June next. Dated May 25, 1853.

WILLIAM JUDSON.

Witness,
GARDNER G. HUBBARD.

Said Judson shall also agree in said grant, or license, that he will not grant a license to any other parties to manufacture india rubber boots and shoes by the use of said improvements, except to the licensees under the aforesaid parties, or those who may have a right to manufacture boots and shoes under Goodyear's patent.

WILLIAM JUDSON.

Witness,
GARDNER G. HUBBARD.

Received and recorded July 11, 1853. Ex'd. A. B. L.

("C.")

Whereas, by sundry assignments executed by Charles Goodyear, of New Haven, and others, the sole and exclusive right to manufacture and vend india rubber boots and shoes under the patents of the said Goodyear, has become vested in L. Candee & Co., The Hayward Rubber Company, The Newark India Rubber Manufacturing Company, and Ford & Co., as associates; and The New Brunswick Rubber Company, The Goodyear Metallic Rubber Shoe Company, and Hartshorn & Co., as licensees.

And whereas, by agreements between Edwin M. Chaffee and William Judson, the right to license persons to use the patent and extension thereof granted to the said Chaffee for an improvement in the preparation and application of india rubber to all kinds of cloths, without the aid of a solvent, has become vested in the said Judson.

Now, this indenture, made this 15th day of May, A. D. 1853, by and between the said L. Candee & Co., the said Hayward Rubber Company, the said Newark Company, and the said Ford & Co.,

associates of the first part, the said New Brunswick Company, the said Goodyear Company, and the said Hartshorn & Co., of the second part, the said Judson of the third part, and the Malden Manufacturing Company, a corporation chartered by the laws of Massachusetts, of the fourth part, witnesseth:

First—That the said parties of the first part, by and with the consent of the parties of the second part, in consideration of the sum of one hundred thousand dollars to the first and second part paid by the party of the fourth part, the receipt whereof is hereby acknowledged by the said parties, and in further consideration of the payments and stipulations herein provided to be paid and performed by the party of the fourth part, do hereby give and grant unto the said Malden Manufacturing Company, their successors and assigns, a full and absolute license to manufacture and vend india rubber boots and shoes, and for that purpose to use any and all of said Goodyear's preparations of india rubber and improvements in the preparation of india rubber for manufacturing boots and shoes of all kinds, for and during the unexpired term or terms of all patents issued to the said Goodyear, bearing any date whatever, for and during the unexpired term or terms of any other patent, patents, or renewal thereof owned by him, the said Goodyear, or in which he may have an interest, issued or to be issued, and this license is to extend to all said Goodyear's future improvements and preparations of india rubber, whether patented or not.

Second—The said parties of the first part, for themselves, their successors and assigns, hereby covenant and agree to and with the said party of the fourth part, their successors and assigns, that they will not grant to any other person or company whatsoever any license to make, use, or vend the said preparations or improvements in the preparation of india rubber for the manufacture of india rubber boots and shoes during the continuance of this license, except a license to J. A. Dorr.

Third—The said William Judson, party of the third part, hereby gives and grants unto the said Malden Manufacturing Company, their successors and assigns, a full and absolute license to use the said Chaffee patent in the manufacture of india rubber boots and shoes, and hereby gives his consent to their using said patents as aforesaid.

Fourth—The said parties of the first part, for themselves, their successors and assigns, further covenant and agree to and with the said party of the fourth part, and their successors and assigns, that they will, at their own cost and expense, prosecute with all reasonable despatch, and carry on to final judgment, a sufficient number of suits against violations of the said Goodyear's patent, so far as the same relate to the manufacture of india rubber boots and shoes, and that they will continue to do so until the patents are set aside in the highest Court to which they can be carried.

Fifth—The said parties of the first part, for themselves, their successors and assigns, further covenant and agree to and with the said

party of the fourth part, their successors and assigns, that they will fully do and perform, during the continuance of this license, all the covenants, agreements, and stipulations, to be by them kept and performed, and contained in two agreements made on the 1st day of July, A.D. 1848, the first being an agreement between the said Goodyear and the said parties, and the second an agreement between themselves.

Sixth—The said parties of the second part, hereby consent and agree to the granting of this license to the said party of the fourth part, and they further covenant and agree to and with the said party that they will not consent to the granting of a license to any other party.

Seventh—The said party of the fourth part, for themselves, their successors, and assigns, in consideration of the premises, hereby covenant and agree to and with the said parties of the first and second parts, that they will pay to Leverett Candee, or to such other trustee as may be appointed in his stead by any instrument in writing signed by a majority of the parties of the first and second parts, semi-annually, three cents, and to Charles Goodyear one half of one cent, on each and every pair of boots and shoes, &c., as aforesaid manufactured by them, but if any of said boots and shoes are not merchantable and are destroyed, then no tariff shall be paid thereon, such tariff to commence and be completed from the day of the date thereof.

Eighth—The said party of the fourth part further covenants and agrees, and with the said parties of the first and second parts, that they will keep true and correct accounts and books, showing the number of boots and shoes, &c., as aforesaid manufactured by them, and showing the amounts to be paid to the said trustee, as well as to the said Goodyear, truly and fully, which accounts and books shall at all times that are reasonable be open to the inspection of the said parties of the first and second parts and their trustee. That they will stamp with the words "Goodyear's patent," and with their own name, all boots and shoes manufactured and sold by them as aforesaid, showing that they are the manufacturers thereof. That in case they should sell, assign or transfer to any person or company the license hereby granted, they will in every such sale, transfer or assignment, insert an agreement on the part of every such purchaser, that such purchaser will comply with all the terms, conditions, and stipulations which the said party of the fourth part are bound by this instrument to observe and perform, but said parties of the fourth part shall not be held responsible for the fulfilment on the part of any such purchaser of any such stipulation or agreement. All the india rubber boots and shoes manufactured during the continuance of this license by the said party of the fourth part, shall be deemed and taken to be made under it and paid for accordingly. The said tariff shall be paid, notwithstanding any of the foregoing stipulations, until the patents of the said Goodyear are declared void by the highest Court to which they can be carried. All the provisions, rules and

regulations which have heretofore been made, or which may hereafter be made for regulating the sale and prices of india rubber boots and shoes, shall be binding on the said party of the fourth part to the same extent to which they bind the other licensees.

The same provisions in this behalf being applicable to the said party of the fourth part that are applicable to said Hartshorn & Co.

Ninth—The tariff to be paid to said trustee by said party of the fourth part, under the provisions of the seventh article hereof, shall be appropriated by the trustee on the principles set forth in the license granted to the said Hartshorn & Co., and under which they are now acting; provided, however, that after the payment of the portion of the tariffs due to the parties of the second part, one-half part of the balance thereof shall be applied to pay the costs and expenses of extending said Chaffee's patent, and of any litigations and disputes which may grow out of said patent in sustaining or defending the same, and such prosecutions shall be commenced within a reasonable time after such infringements come to the knowledge of the parties of the first and second parts, and the same shall be prosecuted to final judgment with all reasonable despatch.

Tenth—It is further agreed by and between the said parties of the first, second, and third parts, that nothing herein contained shall affect any rights or contracts between said parties not specified in this license.

In witness whereof, said parties have executed these presents, the day and year first above written.

LEVERETT CANDEE & CO.
L. CANDEE,
President.
HAYWARD RUBBER CO.
WM. A. BUCKINGHAM,
President of the Newark India Rubber Manufacturing Co., subject to the approval of their Board,
By ABM. COLES,
Treasurer.
FORD & CO.
JOHNSON LETSON,
President of the New Brunswick Rubber Co.
GOODYEAR'S I. R. SHOE CO.,
By S. J. LEWIS,
President.
HARTSHORN & CO.
WILLIAM JUDSON.
MALDEN MANUFAC. CO., by their Pres't,
GARDINER G. HUBBARD.

Executed in presence of
T. C. WALES,
WARREN ACKERMAN.

The foregoing exhibits, marked "B" and "C," were read by the complainants.

Deposition of witness, produced, sworn, and examined, the twenty-seventh day of September, in the year one thousand eight hundred and fifty-five, at New Haven, under and by virtue of a commission issued out of the Circuit Court of the United States of America, for the Southern District of New York, in a certain cause therein depending and at issue between Horace H. Day, complainant, and the Union India Rubber Company, defendant. Robert H. Osborn, one of the persons named in the commission, was not notified of the time and place of taking the deposition, on account of his absence; and Henry White, the other person named, was notified, but declined acting under the commission.

Leverett Candee, of the city of New Haven, manufacturer, of fifty-five years of age and upwards, being duly sworn, pursuant to the directions hereto annexed, and examined on the part of the defendant, doth depose and say as follows:

1st. That his name is Leverett Candee, age fifty-five and over, place of abode New Haven, and that he is a manufacturer.

2d. That the business in which he is engaged is the manufacture and sale of india rubber boots and shoes.

3d. That he is engaged in manufacturing and selling vulcanized rubber boots and shoes; I have been engaged in the business since the year 1843, I think, using vulcanized rubber.

4th. That he is not prepared to answer that question, and is unable to state definitely the amount.

5th. That L. Candee & Co., a joint stock company of which deponent is a stockholder, have manufactured rubber boots and shoes, under a license from Charles Goodyear, a patentee, which license was dated July 1, 1848. Ford & Co., New Brunswick, New Jersey, The Newark India Rubber Manufacturing Company, and The Hayward Rubber Company, of Colchester, Conn., all work under the same agreement or license, as the said L. Candee & Co. Charles Goodyear was then the owner of the patent; at that time Charles Goodyear was the owner of the patent to E. M. Chaffee; and the license above-mentioned, included the use of this patent also.

6th. That the four concerns specified in the answer to the 5th interrogatory, have worked and still work under the license or agreement mentioned in said answer; L. Candee & Co. and the other concerns mentioned in said answer, having the exclusive right to manufacture boots and shoes under Goodyear's patent, and all the patents which he owned when said agreement was made, or subsequently have granted four licenses for manufacturing rubber boots and shoes, to wit:—to Onderdonk & Letson, New Brunswick; The Goodyear Metallic Rubber Shoe Company, of Naugatuc; Hartshorn & Co., or Isaac Hartshorn, of Providence, Rhode Island; and the Malden Company, Malden, Mass.; these several firms as I suppose manufacture each on their own account.

7th. That the license or agreement in the answer to the 6th interrogatory mentioned, was in writing and signed by Charles Goodyear, and by the deponent in his own name, representing a special copartnership, which has since become the joint stock company of L. Candee & Co., and I believe it was also signed by the Newark Rubber Manufacturing Company, Ford & Co., and Hayward Manufacturing Company.

8th. That he has this day searched among his papers and cannot find the original of said license or agreement, nor a copy of the same; he further says that he does not know where the original is, but supposes that it is in the hands of some one of the counsel in those cases; he supposes that it has been recorded in the patent office.

9th. That L. Candee & Co. and the other licensees have been using the license or licenses in the answers to the 5th, 6th, and 7th interrogatories specified, and are now using the same.

10th. That E. M. Chaffee lived in New Haven in 1850, and he thinks he left in 1851. Deponent knows that he lived in New Haven, September 5, 1850. While he lived in New Haven, he was occasionally in the factory of L. Candee & Co., and frequently in the office of deponent. Said Chaffee knew that L. Candee & Co. used his machine, and never to the knowledge of deponent made any objection to such use, until an alleged sale to Horace H. Day, about the 4th day of July, 1853.

11th. That a short time before the Chaffee patent would expire, Charles Goodyear spoke to deponent, regarding the extension of it. Mr. Goodyear told me that he either had made a contract or was about to make a contract with Mr. Chaffee for its extension, for which he was to pay him, if it was extended, about three thousand dollars. I remarked to him that I did not think it was worth the undertaking. He thought it was, and subsequently an agreement was entered into for its extension. This agreement was in writing, and was dated, I think, May 23d, 1850. I have not this agreement. I suppose it is in the hands of the counsel; as near as I can recollect its contents, Charles Goodyear was to pay Mr. Chaffee three thousand dollars for the extension, and for a gum shellac patent. I do not recollect whether there was any provision for the expense of procuring the extension; I had nothing in particular to do with the making of this first agreement. Some time in the month of July or August following, William Judson, of New York, came to New Haven, and informed me that there was an opposition to the extension, and that the opposing party was about to take the deposition of Dr. How, of Derby, and requested me to go with him to Derby, and be present at the taking of the deposition. I went to Derby with Judson, and was present at the taking of the deposition. I do not recollect hearing any further ont he subject until Mr. Judson came to New Haven again, in September following. On the 5th of September, Judson consulted me on the propriety of his taking from

Chaffee a conveyance of the extended patent. Mr. Judson being agent and attorney for Goodyear, and the licensees suggested that the conveyance should be made to him in trust for them. I assented to that arrangement. Mr. Judson, I think, had a draft of a conveyance which he brought with him, according to my recollection, in which he stipulated to pay Chaffee twelve hundred dollars per annum, in quartely payments, during the continuance of the extension. That evening, Mr. Judson and myself went to Chaffee's house, where we found Mr. Chaffee and a Mr. Woodman. Mr. Judson stated the object of his coming; some conversation took place between him and Chaffee, as to the amount of the annual payments. Chaffee thought he ought to have fifteen hundred dollars a year, and it was finally agreed that he should have that amount during the continuance of the patent, payable quarterly. The writings were executed and carried out at twelve hundred dollars a year, but it was verbally understood that he was to have fifteen hundred dollars a year. I have not got this writing, and suppose it to be with the other papers in the hands of counsel. The agreement was signed by Judson and Chaffee, and I verbally gave my assent to it. This agreement provided that Mr. Chaffee was not to be subjected to any expenses in obtaining the extension, or subsequently, according to my best recollection. There is a fund provided by the four licensees to meet legal and other expenses, growing out of the patent.

The complainant objected to all statements contained in the foregoing answer as being irrelevant, and inadmissible, and incompetent, for the reason that Chaffee's attention had not been called to his alleged declarations, and the same was read subject to the said objection. And to the decision admitting the same in evidence, the counsel for the said complainant, then and there, in due time, manner, and form, excepted.

12th. There was a fund provided by the licensees of Charles Goodyear to sustain and defend Goodyear's patents; the particular objects to which it was to be applied are specified in the written agreement on the subject to which I have referred in a previous answer, but I cannot recollect precisely what they are. The four licensees who have been named in a previous answer, who are sometimes called the Shoe Associates, contributed to this fund. The licensees of these licensees pay a tariff to them and not to the fund. Jonathan Ackerman was the first trustee—he is dead. I succeeded him. Ackerman kept a trustee book of receipts and payments, which was handed over to me; I have continued the account in the same book. The deponent declines producing the original book, but the account annexed to this deposition, marked "D," is a true copy of the account of payments out of said fund, on said original book. There is a mistake in the account in said book, which is also contained in said annexed account. The charge under date October 28th, 1853, of one hundred dollars, should not have been entered in this account, but in the private

account of Wm. Judson. The payments contained in said account equal all, or nearly all, the moneys which have been received on said fund.

13th. That he has in his possession an agreement regarding the trust fund containing also the appointment of said Ackerman as trustee, a true copy of which is hereunto annexed, marked "E;" also the appointment of deponent as his successor, a true copy of which is annexed, marked "F." Deponent declines producing the originals; deponent thinks the originals have never been recorded in the patent office. He further says, that he is not aware that he has in his possession any other documents called for by this interrogatory.

The amount paid out by said Ackerman will appear from the copy of the account hereto annexed marked "D," embracing all the entries preceding and including August 10, 1852. The same account will also show the amount paid out by the deponent, and also the whole amount so paid out. The document annexed, marked "G," contains true copies of all the vouchers which the deponent has in his hands for moneys paid over to William Judson. The vouchers, if any, received by Ackerman, never came into deponent's possession. The document hereunto annexed, marked "I," is a true copy of the original in the hands of counsel, conferring an authority on Ackerman to pay trust funds to Judson.

14th. That the amount of payments made to William Judson out of the trust fund, will appear in the account hereunto annexed, marked "D."

15th. That said William Judson has not, to his knowledge, been called upon to render any account of the expenses of procuring said extension, nor has he rendered any such account to deponent, or to any one else to deponent's knowledge.

16th.

17th. That he does not know that said William Judson has ever been called upon by any one to render such account.

18th. That he knows of no such meeting, except the one which has been particularly described in the answer to the 11th interrogatory.

19th. That he does not recollect of anything further, except that deponent has personal knowledge of the payment by the shoe associates to E. M. Chaffee, of fifteen hundred dollars in advance, on account of the contract of the 5th September, 1850.

("D.")

William Judson, "Attorney."

1848.			
July.	To cash, ...		$600 00
1849.			
April 3.	" pd. Hay'd R. Co., settl't March 1, '49, . .	$100 00	

April 3,	To cash pd. L. B. Woodruff, per order, . . .	$100 00		
	" do. do.	100 00		
				300 00
June 13.	" per rec't, . . .			200 00
July 9.	"			100 00
Oct. 9.	" paid draft fav. Keller, .			600 00
1850.				
May 10.	" " H. Hutchinson, . . .			1000 00
July 29.	" paid S. P. Staples and Wm. Judson, draft favor W. J., att'y, . .			1000 00
Aug. 2.	" do. do. do.			1000 00
Sept. 5.	" draft fav. John Greacen, .			1000 00
30.	" per rec't filed, . .	1000 00		
	" pd. John Helm, subpœna and service, . . .	5 38		
				1005 38
Oct. 15.	" your draft, . . .			2000 00
1851.				
Jan. 17.	" pd. sight draft, . .			2000 00
Feb. 21.	" do. . . .			2000 00
Mar. 18.	" do. . . .			3000 00
May 20.	" pd. your draft, . .			3000 00
July 23.	" " 15th inst., per rec't, .			666 66
Aug. 13.	" " draft, . . .			3000 00
25.	"			2000 00
Sept. 1.	To bills r'ble, 2 rec'ts in book, .	5850 83		
	To cash pd. Jas. S. Nevins, Com'r, pr. Jno. Van Dyke, and service of subpœnas—see Bradley letter, .	20 00		
	" pd. witnesses, viz., Helm, Tyre, Jackson, Eldridge,	17 50		
				5888 33
16.	" loose rec'ts, . . .	2013 38		
18.	" draft fav. J. P. Bradley, .	250 00		
22.	" pd. order to Jno. Greacen,	3000 00		
	" remitted to Trenton, per order, . . .	2000 00		
				7263 38
Oct. 13.	" pd. B. F. Colton, order in his fav., . . .			30 00
	" " y'rself, per rec't, .			2000 00
29.	" " draft, . . .			2000 00
Nov. 6.	" " J. R. Ford, per order,			$40 00

Nov. 12.	To cash paid draft fav. L. Candee,			285 00
18.	" " draft to Wm. Judson,			3000 00
	" " " Jno. Van Dyke,			100 00
Dec. 24.	" " " . . .			2245 45
1852.	Amount brought over, .			47,324 20
Feb. 10.	To cash pd. draft, . . .			3000 00
28.	" "			2000 00
Mar. 20.	" "			4000 00
April 20.	" "			9000 00
27.	" "			3000 00
May 17.	To bills r'ble from Ford & Co.,			8000 00
	" cash, ...			2500 00
27.	" bills r'ble from Hayward & Co., . . .			8000 00
June 10.	" cash, ...			2000 00
18.	" bills r'ble, Newark Co., 3 notes, . . .			8000 00
	" cash pd. draft fav. Jno. Van Dyke, . . .			500 00
July 1.	" order fav. Ford & Co., . . .			74 00
Aug. 10.	" bills r'ble, paid L. Candee, per order, . .			4865 59
1853.				$102,263 79
July.	To cash paid in New Haven, .			3000 00
	" " New York, .			3000 00
Oct. 20.	" " him, . .			3000 00
27.	" " " per rec't, .			4100 00
28.	" " R. S. Baldwin, per request, for retainer, in cause Staples v. Judson,			100 00
Dec. 31.	" " his draft at sight,			3000 00
1854.				
Jan. 11.	To bill rend. by Malden Co., for legal service by G. G. Hubbard, ...			696 75
28.	To cash on acc't, . . .	$726 73		
	bills R for two notes in William A. Buckingham, Treas., due May 11, 14, . .	5000 00		
	Johnson Letson Pt., due 11, 14,	4147 95		
				9874 68
	To cash pd. your note to L. C. & Co., April 14, . . .	1000 00		

	To cash pd. acc't to L. C. & Co.,	$341 20	
			$1341 20
Jan'y 28.	To cash pd. in New York, June 28,		5549 81
	" bills r'ble,		8773 23
Sept. 13.	" paid Malden Co.,	669 10	
July.	" Hartshorn & Co. acc't for expenses paid in lawsuits,	2432 31	
	" am't allowed N. Hayward and Int. for services and expenses in suit Goodyear v. Day,	5404 70	
1855.			
Jan'y.	" paid Malden Co.,	408 00	
April 4.	" cash,	8561 40	
June 9.	" note,	3588 06	

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, this paper writing was produced and shown to Leverett Candee, and by him deposed unto at the time of his examination, before

HENRY DUTTON,
Commissioner.

("E.")

Whereas, the subscribers have become the sole and exclusive proprietors to the use of all the improvements made in the preparation and manufacture of india rubber, into shoes, and boots, by Charles Goodyear, or in which he is or was interested, so far as said improvements are applicable to the manufacture of shoes and boots, and upon which each company so manufacturing has agreed to pay a certain tariff on each pair of shoes or boots so made.

Now, in consideration of the premises, we, the subscribers, each company for itself, and not one for another, and each in consideration of the exaction hereof by the other, agrees with Jonathan C. Ackerman, of New Brunswick, New Jersey, who is hereby made and appointed the receiver and trustee, to enforce all the provisions hereof, to pay to him three cents and a half for each and every pair of shoes or boots so made, and not destroyed as not merchantable to the number of 500 pair per day, for each company, or firm subscribing this agreement; and for each pair of shoes or boots over 500 pair per day, five cents per pair, payable as aforesaid, to be computed by averaging the number manufactured during and at the end of each six months, exclusive of Sundays; and each company and firm is to keep an accurate and full account of the shoes and boots manufactured, and render the same, and make payments thereon to the said

Jonathan C. Ackerman, once in six months, which accounts shall be open to the inspection of any one interested in this agreement at all reasonable times; and all the india rubber shoes and boots made during the continuance of this agreement, by either the parties, or by any person or persons under them, or by or with their consent, shall be deemed and taken to be manufactured under it, and shall be stamped openly and visibly on the outside of the sole, with the maker's name, and with the words "Goodyear's Patent," and all damaged shoes put into the market, shall, in like manner, be stamped with the word "damaged."

And said Jonathan C. Ackerman shall retain fifteen per cent. on the sums so received, to pay the expenses of any litigation or disputes which may grow out of the said patent rights in sustaining or defending the same, subject to the call of the attorney, solicitor, or counsel, who may have the conduct and management of said disputes or litigation, as the same may be needed for the purposes aforesaid, and said Jonathan C. Ackerman is to pay to Charles Goodyear one-half of one cent on each and every pair of said shoes and boots so made and so paid, payable to said Goodyear or his order, less fifteen per cent. of the amount thereof, which shall be paid to Seth P. Staples and William Judson, under an appropriation made by the said Goodyear, for the maintenance of his various patents, under and by virtue of an instrument executed by said Goodyear to said Staples and Judson. And said Jonathan C. Ackerman is to pay William Judson one-fifth ($\frac{1}{5}$) of the balance, as the same may be received, and the balance, the said Ackerman is to pay in equal shares to the subscribers as the same may be received and ascertained. The payments of tariff are to commence and be computed from the 1st day of July, 1848. This agreement is to be left with Jonathan C. Ackerman, with a right to each party to have a copy, which may be used as an original by all the parties to the same. In case the whole fifteen per cent. is not wanted for the purposes aforesaid, it is to be divided among the subscribers, and if none is wanted, the subscribers are to make up what is wanted. And the subscribers hereto, that is to say, Leverett Candee, as general partner in a special partnership located at New Haven, Connecticut, and doing business under the name and firm of "Leverett Candee." The Hayward Rubber Company, so called, being a manufacturing company, incorporated by the laws of the State of Connecticut, the Newark India Rubber Manufacturing Company, located at Newark, in the State of New Jersey, being a company duly incorporated by or under the laws of the said last-named state, and the copartnership or firm of Ford & Co., of New Brunswick, in the State of New Jersey—do severally, each for itself or themselves, and not the one for the other of them, covenant, promise, and agree to and with the others of them, and to and with each of the others of them, that they will, well, truly, and faithfully o and perform all things herein above agreed to be done and per-

formed on their part, and that they will make the payments herein above-mentioned to the said Jonathan C. Ackerman, at the times and after the rates and in the manner above mentioned, and that the amounts of such payments shall be apportioned and distributed and paid over by the said Ackerman, as above set forth. And they do further covenant, and in the manner aforesaid agree, inasmuch as they have mutually agreed that the number of licenses under the aforesaid patent, so far as they apply to the manufacture of boots and shoes, shall not be increased beyond the above named parties, and the Goodyear Metallic Rubber Shoe Company, Onderdonk & Letson, and Joseph H. Dorr, without the consent of a majority of the following six parties, viz., the above-named four parties hereto, the said Goodyear Metallic Shoe Company, and the said Onderdonk & Letson; they, the aforesaid parties above-named, shall not and will not, either severally or collectively, by assignment, license, or otherwise, give license to any other person or persons, firm or firms, company or companies, to use the said improvements, or any of them, in the manufacture of boots or shoes, without the consent of such majority as aforesaid. And they further agree in manner aforesaid, that the said patents and improvements, so far as applicable to boots and shoes, shall be maintained and defended, and piracies and infringements restrained and prevented, so far as practicable, and if necessary for that purpose, a sufficient number of suits shall be prosecuted and carried on to final judgment, until the patents are set aside in the highest Court, to which they can be carried, and that in case aforesaid, the fifteen per cent. to be reserved by the said Ackerman, shall not be sufficient to defray the expenses, costs, and charges of so maintaining and defending the said improvements and patents, and preventing infringements, the said parties will severally contribute their equal shares and proportions to make up the deficiency.

And it is further expressly agreed, that all money which may become due and payable from the Goodyear Metallic Shoe Company, or any other person or persons, under any license given, or to be given, to use the aforesaid improvements, or any of them, for tariffs reserved by the said parties hereto, or due to them, shall be payable to and shall be collected by the said Jonathan C. Ackerman, and shall be held and distributed by him according to the provisions hereof, except so far as in any such licenses, the half cent per pair of boots or shoes may be authorized or directed to be paid to the said Charles Goodyear, by such license, and for that purpose the said parties hereto expressly order and direct the payment of all such tariffs to the said Ackerman, to be held by him, and distributed in the manner and in the proportions above appointed. And it is hereby further expressly agreed, that in case the said Ackerman shall die, or at any time hereafter refuse to collect the moneys herein agreed to be paid to him, and distribute the same according to the provisions hereof; or in case a majority of the said four parties hereto

shall think proper to substitute another person or persons in his stead to collect and distribute the moneys aforesaid, a person or persons shall and may be designated by a majority of the said four parties; and upon such designation being made in writing, the person so designated shall be clothed with all the powers and authority herein conferred upon the said Ackerman, and all the payments due or thereafter to become due shall be made to the person or persons so designated, who are hereby expressly authorized to collect and receive the same, and to distribute and pay the amounts collected according to the provisions hereof, and upon such designation the parties hereto shall and will forthwith execute and deliver to the person or persons so designated all necessary and proper covenants and agreements to enable him or them to make such collections, and pay and distribute the same as aforesaid. These presents are to continue in force until the expiration of the patents for the said improvements and all renewals thereof, or until the said patents shall be set aside, or declared void in the highest court to which the question can be carried.

The words "exclusive of Sundays" on first page, and the word "aforesaid" on fourth page, interlined before extension.

In witness of all which the parties have executed these presents this 1st day of July, 1848, in the presence of.

Hayward Rubber Company,
H. BURR,
President.

HUGH H. OSGOOD,
Witness.

LEVERETT CANDEE,
FORD & CO.

GEORGE S. EVERETT,
Witness.

[L. S.] HIRAM HUTCHINSON,
President.

Attest, ABRAM DAMON,
Secretary, pro tem.

I, William Judson, the owner of one-eighth part of all tariffs due to or arising from the improvements of Charles Goodyear, mentioned in the foregoing instrument, do hereby assent to the foregoing agreement, so far as such improvements are applicable to and used in the manufacture of boots and shoes, and consent to receive the one-fifth part of the tariffs in the foregoing instrument mentioned in full for my claim for the said one-eighth; this consent, however, to be confined to the manufacture of boots and shoes only.

Witness my hand and seal this 1st day of July, 1848.

WILLIAM JUDSON.

In presence of Witness,
DANIEL DIETERICH.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this paper writing (embracing all the sheets marked E) was produced and shown to Leverett Candee, and by him deposed unto at the time of his examination, before

HENRY DUTTON,
Commissioner.

("F.")

NEW YORK, 11th Jany., 1853.

This will certify that we, the subscribers, have designated, constituted and appointed Leverett Candee our receiver and trustee in the place of Jonathan C. Ackerman, deceased, to enforce all the provisions of a certain agreement entered into between the subscribers, having date the first day of July, 1848.

FORD & COMPANY.

The Newark India Rubber Manufacturing Co.,
By AB'M. COLES,
Treasurer.

Goodyear Metallic Rubber Shoe Co.,
S. J. LEWIS,
President.

Hayward Rubber Co.,
WM. A. BUCKINGHAM,
President.

At the execution of a commission for the examination of witnesses between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this paper was produced and shown to Leverett Candee, and by him deposed unto at the time of his examination, before

HENRY DUTTON,
Commissioner.

("I.")

Mr. Jonathan Ackerman, trustee, under the agreement between the undersigned, manufacturers of boots and shoes, and licensees under Goodyear's patents, dated July 1, 1848, is hereby authorized, from time to time, out of the fifteen per cent. set apart in his hands, to pay the expense of litigation, as therein provided, to pay the drafts of William Judson, Esq., made against the said fifteen per cent upon him, as the said Judson shall require, for the expense of the litigation therein provided for; and the payments heretofore made by the said trustee upon the orders of the said Judson, are hereby allowed as a good accounting by the said trustee to the extent of such payments.

Dated New York, September 18, 1850.

For the Newark R. M. Co.,
HIRAM HUTCHINSON,
President.

Hayward Rubber Co.,
W. A. BUCKINGHAM,
Treasurer.

LEVERETT CANDEE.
FORD & CO.

Witness,
L. B. WOODRUFF, as to
N. Ind. R. Co.

Hayward R. Co.,
L. CANDEE.

Witness to Ford & Co.,
J. FORD.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendant, this paper writing and printing was produced and shown to Leverett Candee, and by him deposed unto, at the time of his examination, before

HENRY DUTTON,
Commissioner.

("G.")

(Copy.)

Rec'd, New York, 19th September, 1850, from Leverett Candee, H. Hutchinson, Esq., and Ford & Co., each in the sum of three hundred and seventy-five dollars, making eleven hundred and twenty-five dollars, being in advance of an agreement entered into between William Judson and myself, conveying to said Judson in trust my extended patent of rubber machine.

(Signed) E. M. CHAFFEE.

Rec'd, New Haven, 7th October, 1850, from L. Candee, three hundred and seventy-five dollars, being the proportion of the Hayward Manufacturing Company of an advance of by the shoe associates of fifteen hundred dollars in the patent machine extension.

$375.

E. M. CHAFFEE.

Rec'd, New York, March 6th, 1851, from William Judson, three hundred and seventy-five dollars, being one-quarter part of fifteen hundred dollars per annum, due me as per agreement with Wm. Judson for the quarter ending first inst.; also seventy-five dollars, being deficiency in payment of the quarter due 1st December, 1850,

three hundred dollars having been received of L. Candee on acct. of that quarter.

$375 00
75 00

(Signed)
EDWIN M. CHAFFEE.

$450 00

PROVIDENCE, March 1st, 1852.

$375.

At sight pay to my own order three hundred and seventy-five dollars value received, and place the same to the debit of

EDWIN M. CHAFFEE.

To WILLIAM JUDSON, Esq.,
New York.

(Indorsed)
EDWIN M. CHAFFEE.

PROVIDENCE, June 1st, 1853.

$375.

At sight pay to my order three hundred and seventy-five dollars value received, and place the same to the debit of

EDWIN M. CHAFFEE.

To WM. JUDSON, Esq.,
City of New York,
20 Franklin Building, Broadway.

(Indorsed)
EDWIN M. CHAFFEE.

Messrs. Clark & West will please pay the within draft. May 31, 1852.

WM. JUDSON,
158 Broadway, N. Y.

PROVIDENCE, September 1st, 1852.

Paid by check on Clark & West.

$375.

At sight pay to my order three hundred and seventy-five dollars value received, and place the same to the debit of

EDWIN M. CHAFFEE.

To WM. JUDSON, Esq.,
Franklin Building, N. Y.

(Indorsed)
EDWIN M. CHAFFEE.

NEW HAVEN, 24th Jany., 1851.

$125.

At sight please pay to the order of L. Candee one hundred and twenty-five dollars value received, and charge to account.

Your obt.,
E. M. CHAFFEE.

To H. HUTCHINSON, Esq.,
Pres. Newark India Rubber Mfg. Co.,
Maiden Lane, New York.

(Indorsed)

L. CANDEE.

Pay G. Curtis, Esq., cashier on order.

E. TOWNSEND, Jr.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and The Union India Rubber Company, defendant, this paper writing was produced and shown to Leverett Candee, and by him deposed unto, at the time of his examination, before

HENRY DUTTON,
Commissioner.

The counsel for said complainant objected to exhibit D, and to Judson's consent, and to exhibit I, and to Chaffee's receipt for $125, as being irrelevant, incompetent, and inadmissible.

The counsel for the said complainant then read the answers of the witness, Leverett Candee, to the 11th, 12th, and 13th cross-interrogatories, and the counsel for the said defendants, under objection by the counsel for the said complainant, that the same were irrelevant, read the answers of the said witness to the remaining cross-interrogatories.

And to the decisions overruling the said objections, the counsel for the said complainant then and there, in due time, manner, and form excepted.

Answers to Cross-Interrogatories.—1st. That he did testify in said cause, and was called as a witness by said Hartshorn.

2d. That he has examined the annexed paper marked "A;" that it is according to his recollection correct, except that the answer to the question on the 150th page of the report; "you did not see the agreement itself,"—should be, "I do not recollect seeing it at that time, nor at any time before the extension; I have seen it since." In the answer on the 474th page of the report, to the question,—"Were there not drafts on Ford that were protested;" there is a misprint of the "six" for "sixty," and that the draft was, as he believes, for sixty days.

3d. That he has fully answered the same in the direct examination.

4th. That he has in his direct examination fully answered the same.

5th. That his answer to the same is contained in his answer to the 12th interrogatory.

6th. That he shall annex to the deposition copies of all such receipts and papers in his possession.

7th. That he shall annex copies of all such drafts in his possession to this deposition.

8th. That he shall annex copies of all such receipts and drafts in his possession.

9th. That he has not in his possession or control any such drafts except those, if any, of which copies will be annexed to this deposition.

10th. That he does not recollect of ever having seen the conveyance of the Chaffee patent to Charles Goodyear; but it was a notorious fact, that Charles Goodyear owned the Chaffee patent by a written conveyance.

11th. That he has in his possession the original of which the paper marked B., annexed, purports to be a copy; that he has carefully examined said paper, and has no doubt that it is a true copy of said original. He further says, that he is acquainted with the handwriting of William Judson, and that the signature of the original is in the handwriting of said William Judson. He declines to produce the original.

12th. That he has in his possession the original agreement in writing, of which the paper annexed, marked C, purports to be a copy; that he has examined said paper C, and, according to his best knowledge and belief, the copy, or paper marked C, is a true copy of said original. The deponent declines to produce said original; but has no doubt that the signatures thereto are all genuine. Deponent signed the same.

13th. That he has no knowledge that any such license or licenses were ever made.

14. That he has not, to his recollection, any further knowledge of facts material to the case; and further deponent saith not.

LEVERETT CANDEE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 27th day of September, A. D. 1855, before

HENRY DUTTON,
Commissioner.

The President of the United States to Leonard W. Goddard, Esq., and Rob. B. Campbell, Esq.

Know ye, that we, with full faith in your prudence and competency, have appointed you commissioners, and by these presents do authorize you to examine John R. Ford and Johnston Letson, of New Brunswick, in New Jersey, as witnesses in a cause pending in the Circuit Court of the United States, in and for the Southern District of New York, in the Second Circuit, wherein Horace H. Day is complainant, in equity, against The Union India Rubber Company, are defendants, on the part of the defendants, on oath, upon the interrogatories annexed to this commission, to take and certify the deposition of the witnesses, and return the same according to the directions hereunto annexed.

Witness, the twentieth day of September, one thousand eight hundred and fifty-five.

This commission is issued according to the annexed stipulation, and in pursuance thereof, by

Solicitor for the Defendants; and
S. P. STAPLES,
Of Counsel.

The execution of this commission appears in certain schedules hereunto annexed.

[L. S.] LEONARD W. GODDARD, Notary Public.
[L. S.] ROB'T B. CAMPBELL, Notary Public.
} Commissioners.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY.
} In Equity.

Interrogatories to be put to John R. Ford and Johnston Letson, both of New Brunswick, in New Jersey, on their examination as witness in said cause on the part of defendants.

1. Where do you, and each of you, belong, and what is your business?

2. Is there a company in New Brunswick known by the name of Ford & Co.? and if there is, please state whether said company is an incorporated company, or a copartnership, and whether either or both of you are a member of said company; and when and for what purpose said company was created, and what is and has been the business of said company since formed.

3. If you or either of you answer that the business of said company has been, and now is, the manufacture and sale of india rubber shoes and boots, please state whether your business has been carried on under a license or licenses from Charles Goodyear, authorizing said company to use his patented improvements, of which he was owner as well as patentee; and whether such license did not include the right to use the patented improvements of Edwin M. Chaffee, secured to him by a patent dated the 31st day of August, 1836, and whether said Ford & Co., or the company to which you belong, was not one of the four companies who, about the 1st of July, 1848, received said license or licenses to use said improvements from Charles Goodyear.

3. Have you, or either of you, said original license or licenses, if there was more than one, or either of them, and will you annex the same to this deposition? But if not willing to do so, please annex a copy thereof. If you have not the original license or licenses, nor a copy thereof, please state, if you know, where they may be found, one or both of them?

4. Please state whether you, or the company to which you belong, have not been in the use of said Charles Goodyear's and said Chaffee's patented improvements for the preparation of india rubber for manufacturing purposes; and if you answer in the affirmative, please to state when you commenced, or when you or your company commenced, such use, and whether you have continued the same to the present time, and since said extension of said Chaffee's patent, the same as before; and whether said Chaffee, until his alleged conveyance to said Day, ever, to your knowledge or belief, objected to such use.

5. Do you know whether an application for the extension of said Chaffee's patent was made in the spring or summer of 1850, and a short time before the expiration thereof.

6. If you answer in the affirmative, please state who made that application, in whose name it was made, with whose knowledge and consent, and at whose expense, and for whose benefit, was the patent to be held, if extended; and particularly whether those who had been using said patent under said Goodyear's licenses, were or were not to continue to have a right to use the same. Who was the agent and attorney employed by said Chaffee, and said Goodyear and his licensees and associates, if any one was so employed? Please state particularly.

6. Do you know, or either of you know, that a fund was provided by said Goodyear and his associates and licensees, to sustain, amend, reissue, and extend, and defend his, said Goodyear's, patent rights, granted to him by his patents and those of which he was assignee or owner, including said patented rights and improvements for the preparation of india rubber for manufacturing purposes—the amount of said fund, and who was the first trustee thereof, and who is the present trustee thereof, and whether your company have not been a contributor to said funds; and who had a right to receive and apply said fund as the same might be wanted for the purposes for which it might be raised?

7. This seventh interrogatory is to be put to Mr. John R. Ford. Please examine the annexed copy of a deposition purporting to have been given and sworn to by you, in a cause then pending in the Circuit Court of the United States for the district of Connecticut, between Horace H. Day and Leverett Candee, and state whether you gave such a deposition, and who drew the same for you, and whether you made oath to the same before Erastus Smith, Esquire, a commissioner of the United States, as appears on the face of said copy, and whether the facts stated in said deposition at the time you made oath to the same, were not true as therein stated; and whether the facts stated in copy now shown you are not true as far as the same are found in said original deposition now on the files of said Court, and a copy of which is annexed to these interrogatories.

J. B. STAPLES,
Solicitor for the Defendants,
By S. P. STAPLES,
Of Counsel.

United States of America, District of Connecticut, *ss.* New Haven.

In the Matter of
L. CANDEE AND ET AL.,
ads.
HORACE H. DAY.

I, Alfred Blackman, Clerk of the Circuit Court of the United States, for the District of Connecticut, do certify that the annexed is a true copy of the affidavit of John R. Ford.

In witness whereof, I have hereunto set my hand, and affixed the seal of said Court, this 4th day of March, 1854.

[L. S.]

Attest, ALFRED BLACKMAN,
Clerk.

United States of America, District of Connecticut, *ss.*

I, Charles A. Ingersoll, Judge of the United States for the District of Connecticut (and one of the Judges of the Circuit Court of the United States of the Second Circuit, within the District of Connecticut), do certify that Alfred Blackman, Esq., is Clerk of said Circuit Court, that the above is his genuine signature in due form of law, and that full faith and credit may be given to the same.

In witness whereof, I have hereunto set my hand, this 4th day of March, 1854.

CHARLES A. INGERSOLL.

Copy (A.)

MR. FORD:

Dear Sir,—I have drawn on you at sight for three hundred and seventy-five dollars, being the amount of your proportion of an advance of $1500 to Mr. Chaffee, Mr. Hutchinson and myself having agreed to pay him, each the same amount, and calculate on the Hayward Co. to do the same. Expected to see Mr. Buckingham this morning, but as yet (about 1 o'clock P. M.) he has not appeared. I have made a suggestion to Mr. Hutchinson which I want you to see him about. In haste.

L. CANDEE.

Sept. 20, 1850.

Addressed outside,
Mr. J. R. FORD,
New Brunswick,
N. J.

MR. CHAFFEE.

(B.)

NEW HAVEN, 18th Sept., 1850.

$375.

At sight, please pay to the order of H. Hutchinson, Esq., three hundred and seventy-five dollars, and charge to acct. of C. E. C.

Respectfully,
Your obt. serv't,
(Signed), LEVERETT CANDEE.

To Messrs. FORD & Co.,
New Brunswick,
N. J.

(Indorsed) Pay to E. M. Chaffee.

H. HUTCHINSON,
E. M. CHAFFEE.

(C.)

No. ——

NEW BRUNSWICK, N. J., Sept. 20, 1850.

State Bank at New Brunswick, pay to E. M. Chaffee, or order, three hundred and seventy-five dollars.

(Signed) FORD & CO.

$375.

(Indorsed)

E. M. CHAFFEE.

Circuit Court of the United States, District of Connecticut.

HORACE H. DAY
v.
LEVERETT CANDEE AND OTHERS.

Affidavit of John R. Ford, of New Brunswick, in the State of New Jersey.

This affiant deposes and says, that he is a member of the firm of Ford & Co., of New Brunswick, which company is one of the licensees of Charles Goodyear, for the use of his patent rights, whether as inventor or assignee, for the preparation and manufacture of india rubber, by virtue of a contract, executed on the 1st day of July, 1848, and recorded in the patent office, in and by which contract the sole and exclusive right to use all said Goodyear's preparations of india rubber in the manufacture of boots and shoes of all kinds, and also all preparations and improvements in the preparation of india rubber, in which said Goodyear then had, or might thereafter have, any interest, by contract, assignment, or otherwise, so that they, the said parties, should have the sole and exclusive use in the shoe business of all his improvements, patented or to be patented or not, for and during the unexpired terms of said Goodyear's patents, and all patents which might be issued to him, or might then or thereafter be

owned by him, or in which he might have any interest, and in any and all renewals thereof; that under said contract, the said licensees, including the said Leverett Candee, enjoyed the free use in the business aforesaid, of the machinery and improvements of Edwin M. Chaffee, during the term of his original patent.

This deponent further states that, having been advised that proceedings had been instituted at the Patent Office for the extension of said Chaffee's patent, and being in New York on or about the 1st of September, 1850, as this deponent believes, called on said Judson, at his office, in the City of New York, and was informed by him that said extension had been granted, and that Edwin M. Chaffee was then in the City of New York, on his way home to New Haven, where, as deponent believes, he then resided, and that by an agreement between Charles Goodyear and said Chaffee, the extended patent was to be assigned to said Goodyear for his benefit, and that of his licensees, but that he, the said Judson, thought it would be best for the parties in interest, under the contract with Goodyear hereinbefore stated, that the title to the renewed term of the patent should not be vested in said Goodyear, but that it should be placed where the patent would be subject to the control of the said associate licensees, under their said contract with said Goodyear; that said Chaffee was then in the City, and that it was a matter that should be acted on at once.

This deponent says that in consequence of the suggestion made by said Judson, he, this deponent, called on Hirman Hutchinson, Esq., then president of the Newark India Rubber Company, one of said associates, and after a conference with him on the subject, said Hutchinson and deponent went together to said Judson's office, and authorized him, the said Judson, in behalf of the said associates, for whom we assumed to act, to make in our behalf a contract with said Chaffee for said extended patent, and we then and there authorized said Judson, in behalf of said associates, to agree to pay the said Chaffee thereof, as this deponent believes, fifteen hundred dollars per annum during the continuance of said patent, but we gave him no authority for, nor was there any conversation in relation to the making of any contract for the payment of any amount, except by way of annual allowance therefor; nor did this deponent ever hear an intimation of any such payment, in addition to such annual allowance having been stipulated by said Judson to be made, until he heard read the affidavit of said Chaffee to that effect.

Said Judson stated at said interview, that it would be better not to take the title in the names of said associates, but in his name as trustee.

This deponent further states, that after the interview aforesaid, with said Judson, this deponent had no further knowledge in relation to the matter until some time after, and as deponent believes, on the 20th day of September, 1850, when Edwin M. Chaffee presented

himself in the office of this deponent in New Brunswick, and handed to deponent a letter addressed to this deponent by Leverett Candee, of which a copy is annexed, marked A, and a draft dated the 18th of September, 1850, and also signed by said Candee on Ford & Co., for the sum of three hundred and seventy-five dollars, payable to the order of H. Hutchinson, Esq., aforesaid, to be charged to account of C. E. C., which deponent supposed to mean "Chaffee extension contract," of which draft a copy is hereto annexed, marked B, and this deponent says that the same when so presented, was paid by a check on the bank, of which a copy is annexed marked C.

Deponent further says, that at said interview, said Chaffee verbally, as this deponent believes, in addition to the explanation contained in the letter which he brought from said Chaffee, stated to this deponent, that the 1500 dollars therein alluded to, was an advance of the first year's annual payment, in anticipation of the times when the same would become due, by his contract with said Judson, which payment said Candee had agreed should be advanced to him for his accommodation, as he was in immediate want of the money; and thereupon deponent gave said check, and also took from said Chaffee in the receipt book of said Ford & Co., which deponent produces, a receipt, in the words following, viz.:

"Received, New Brunswick, Sept. 20th, 1850, from Ford & Co., Three hundred and seventy-five dollars, on account of fifteen hundred dollars to be advanced to me, by the Goodyear shoe associates, on account of my renewed patent.

(Signed,) "E. M. CHAFFEE."

This deponent states that he has no recollection of having had any conversation with said Chaffee after the interview in his, the deponent's, office, as aforesaid, in relation to the subject-matter aforesaid.

This deponent further states, that by an arrangement between said associate licensees of Charles Goodyear, in pursuance of their engagement with said Goodyear in said contract of July 1st, 1848, to do all that may be proper and necessary to sustain the patents therein mentioned and referred to, and defend the same against piracies and infringements, at their expense, in manner and form as is provided in said contract to which this deponent refers, a fund accruing from a certain percentage, on the tariff, payable by said associates, and other licensees under them, was set apart for that purpose, in the hands of a trustee.

This deponent further states, that at a meeting of said associates under the Goodyear contract of 1st July, 1848, in the city of New York, as he believes, in the summer of 1852, Leverett Candee and Nathaniel Hayward were appointed a committee with power to make such arrangement as they might deem best with Chaffee, to withdraw him from the firm of Bourn & Brown.

This deponent further states, that he had no knowledge or information of the making of any other agreement between said Chaffee and Judson, subsequent to the agreement of the 5th of September, 1850, until some time after the alleged assignment to the complainant by said Chaffee, ever authorized or consented to any subsequent agreement by said Judson, by which their rights would be in any manner affected or impaired.

Deponent annexes a copy of an agreement, dated September 18th, 1850, executed by the associate licensees aforesaid, in relation to the fund set apart and referred to in this affidavit.—Hartford, September 22d, 1853.

JOHN R. FORD.

Sworn to before me, this 22d day of Sept. A. D. 1853.

ERASTUS SMITH,
Com. of United States Circuit Court,
For District of Connecticut.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER CO. } In Equity.

Cross-interrogatories to John R. Ford, a witness for defendants, and to Johnston Letson, a witness for defendants.

The complainant objects to each interrogatory after the 2d, as follows:

To the 3d interrogatory, because it asks the witness's construction of a written paper.

To the 4th, because it asks the belief of the witness.

To the 6th, because it is leading and asks for hearsay.

To the 6th, which is improperly numbered and should be 7, because it inquires the purposes of a fund, which are fully stated between the parties to the contract in a written agreement, which can be produced, and also a legal construction of the paper.

To the 8th, because it is leading—because defendants cannot ask their witness what he testified to in the affidavit.

1. This interrogatory to be put to John R. Ford only.—Were you a witness in a cause between Horace H. Day, plaintiff, and Isaac Hartshorn, defendant, tried at Providence, Rhode Island, last winter, before the Circuit Court of the United States; and if you were such witness, did you testify in said cause; by which side were you called, and was not the title to Chaffee's extended patent on trial in that case?

2. To John R. Ford only.—Look at the printed paper hereto annexed and marked "A," which purports to be your testimony in that case, and state whether the said report of your said testimony

is correct, whether you stated as is therein stated, whether the statements therein were made by you, whether they are true, and if not true, wherein they are not true; state particularly.

3. Are you not interested in a suit against yourselves or some company to which you belong, in which Mr. Day has sued you or said company for infringing the Chaffee extended patent?

4. Have you not contributed or paid, or agreed to pay money to aid in the defence of Isaac Hartshorn, or some of the party or parties who have been sued by said Day, for infringing the Chaffee patent?

5. To John R. Ford only.—Were you not, while in Providence as a witness on the trial of the case of Day *v.* Hartshorn, actually engaged in making experiments to aid the defence of that suit, and did you not consult with counsel and take an active part, and did you not do all you could in aid of that defence? State particularly.

6. Do you use the Chaffee process in the manufacture of goods, and how long have you used it, if at all?

7. Have you not said you did not use Chaffee's invention?

8. To Ford only.—Were you not a witness against the validity of said Chaffee patent at Rhode Island, in the suit of Day *v.* Hartshorn?

9. Did you or either of you, or your company, ever pay anything to Charles Goodyear, or any one else, for the use of the Chaffee patent, during the original term of said patent?

10. Did you or either of you ever agree to pay anything to Goodyear or any one else for the use of the Chaffee patent during the original term, and if so, when, where, and how much, and is the agreement in writing? State particularly.

11. To John R. Ford alone.—Did you not testify in Providence, R. I., last winter, in the suit of Day *v.* Isaac Hartshorn, that you nor any of the licensees of Charles Goodyear ever paid anything for the use of the Chaffee patent during the original term, or agreed to pay anything, and that the Chaffee patent was not included in the written licenses to your company, or those under whom they claim; or what did you say on that subject?

12. If in answer to the 6th interrogatory in chief you state anything about who made the application for the Chaffee extended patent, and for whose benefit it was made, state whether you did not know of the contract between Chaffee and Goodyear, made 23d of May, 1850, a copy of which is annexed and marked "C," before the application, and before the Chaffee patent was extended.

13. Whether you know of Chaffee's making any other contract before the extension of his patent than the one made with Goodyear on the 23d of May, 1850? and if so, with whom, when, where, and who was present, and whether it was in writing, and if in writing, what writing? State particularly; and if you have the writing, or a copy of it, annex the same to your deposition.

14. Have you any personal knowledge about the employment of any person to aid in the extension of the Chaffee patent? If so, state who, and particularly all the personal knowledge you have on the subject—but nothing from hearsay.

15. Have you any knowledge about who was employed, and by whom they were employed, and how paid, or to be paid, except what has been told you by Wm. Judson, and what you know of the contents of certain written contracts?

16. Do you know anything personally about who paid the expenses of said extension, and out of what fund they were paid, except by hearsay, or by the contents of the papers creating said fund, and providing how it shall be disposed of? Please answer yes or no, if you can, to this interrogatory.

17. Did you personally know, or were you personally present, when any portion of the expenses of the extension were paid; and if so, when, where, what expenses, to whom, for what service or disbursement, and who paid them? State particularly.

18. Have you any personal knowledge as to who actually paid the expenses of the extension?

19. Did you pay any portion of the expenses of the extension, except you think you paid the same by contributing to the fund?

20. Do you know that the expenses of the extension have been paid?

21. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

S. BLATCHFORD,
Solicitor for Complainant.
By C. A. SEWARD,
of Counsel.

Exhibits A & C were not read by either party.

("A.")

John R. Ford, sworn and examined by Mr. Richardson.

Q. (Handing him a paper.) Did you ever see the original paper of which that purports to be a copy?

Mr. Brady objected. They might put the defendant, Dr. Hartshorn, on the stand, and ask him in reference to the paper, but he objected to this secondary evidence of another party as to whether he ever saw the original of such a paper. Besides, they must produce the subscribing witnesses, and prove the paper.

Mr. Richardson quoted authorities showing that subscribing witnesses were not required where the papers came incidentally in the course of the trial. As for calling Dr. Hartshorn, he would give no more for his oath than for the word of his counsel.

is correct, whether you stated as is therein stated, whether the statements therein were made by you, whether they are true, and if not true, wherein they are not true; state particularly.

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21. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

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Mr. Richardson quoted authorities showing that subscribing witnesses were not required where the papers came incidentally in the course of the trial. As for calling Dr. Hartshorn, he would give no more for his oath than for the word of his counsel.

The Court. It appears to me that this paper is in its nature collateral; it is not in a direct title. The defendants do not claim a license under it nor does the plaintiff. It is merely to show the transactions of Judson in the execution of this power. I think they have a right to ask this question, whether this paper ever existed; but whether they must produce the original itself, is another question —whether they can undertake to prove a paper by producing the copy, is another question. I don't think it is necessary to produce the subscribing witnesses, but if it can be proved, when the original is brought here, it can be authenticated by other testimony.

Mr. Brady took exception to the ruling.

Q. Answer the question now?

A. I think I have seen something very similar to this.

The paper was an agreement to give a license, signed by Judson and the associates, dated May 25, 1853.

Q. Where did you first see it?

A. At Judson's office.

Q. When?

A. I do not know that I could state certainly; I suppose about the time it was written.

Q. Did you send it to be recorded?

A. Yes, sir.

Q. Did you send it yourself?

A. Yes, sir.

Q. Have you ever got it back again?

A. Yes, sir.

Q. Where is it now?

A. I think I sent it to Mr. Candee.

Q. Was he present when you saw it at Judson's office?

A. I think he was.

Q. You think you sent it by Mr. Candee to be recorded?

A. No, sir, I sent it by mail, and sent it by mail to Mr. Candee.

Q. After you got it back?

A. Yes, sir.

Q. Have you seen it since?

A. I don't think I have.

Mr. Ford recalled and examined by Mr. Brady.

Q. At the time of the extension of the Chaffee patent you were one of the firm of Ford & Co?

A. Yes, sir.

Q. After the extension was obtained, did you have an interview with Judson upon the subject of obtaining a title to that extension?

A. I did.

Q. About what date was it?

A. It was about the 1st of September, I think.

Q. Where was it?

A. In his office.

Q. Besides yourself representing one of the associates, who were present at that interview?

A. No one, but Judson at that time, as I recollect.

Q. State what it was?

A. I think Mr. Judson stated to me that Chaffee's patent had been extended, and that he had just returned from Washington, and was then in the city; and he further stated that it would be, he thought, better for all the parties concerned that Chaffee should convey his patent in trust; and he suggested, I think, himself as the proper person to be made trustee. He also said that a salary or compensation would be necessary, and he advised that it should be in the form of an annuity or salary. And I asked him what he thought would be proper—something to that effect; I think he suggested, probably, $1200. That is my impression. And he wanted me, as one of the associates, to authorize him to make such an arrangement, and to pay it from the fund. He said, too, that it was important to decide the matter at once. And I think I then left, and went and had a conversation with Hutchinson, President of the Newark Rubber Co., one of the associates, and talked the matter over with him, stating the conversation I had had, and we went together to his office, and on the part of the associates, authorized him to make such an arrangement; we acted, or assumed to act, for the others, if necessary. That is about the substance.

Q. Did Chaffee call upon you after that?

A. He did.

Q. About how long?

A. It was some days afterwards—possibly weeks—perhaps two or three weeks; I am not sure.

Q. Where did he call upon you?

A. At my office, in New Brunswick.

Q. What did he call for?

A. He presented a letter from Mr. Candee, with a draft on Ford & Co.

Q. What did he say?

A. My recollection of the conversation is indistinct.

Q. The substance of it?

A. He presented this letter and draft, and stated, I think, that Mr. Candee had made the arrangement for his accommodation. I will not be positive; that is, my impression was the substance of what he said. The letter, I think, explains the object.

Q. Accommodate him for what, did he say?

A. My understanding?

Q. The substance of what he said?

A. I have stated the substance so far as I can recollect.

Q. Did you make to him any payment?

A. I did.

Q. How much?

A. I think it was $375.

Q. What was that for?

(Objected to as a legal conclusion.)

Q. (By the Court.) What did you understand it at the time?

A. I can only state my understanding.

Q. (By the Court.) How did you get the understanding?

A. I suppose, from the letter of Mr. Candee, and what Chaffee stated.

Q. (By the Court.) Then you can state what Chaffee did state?

A. My knowledge of what he stated is indistinct. I can only say I think he stated that the object was to accommodate him—that Mr. Candee had made this advance to accommodate him.

Q. What advance?

A. The advance of $1500, as an advance on his salary or annuity. I so understood it.

Q. Look at this check (handing him a paper).

A. That is my check.

Q. Did you give that check to Chaffee at the time?

A. I presume—I am sure I did.

Q. Is that the proportion of your company of the $1500?

A. Yes, sir.

The check was dated Sept. 20, 1850, and payable to the order of E. M. Chaffee.

Q. Was that the first money you had contributed towards the payment of Chaffee?

A. That is the first payment of the annuities on the extension.

Q. What became of that letter from Mr. Candee?

A. I sent the letter with these papers in Mr. Candee's suit, I think. They were requested. I think I have seen it in court and heard it read.

Q. Did Chaffee ever apply to you take any license to use his extended patent?

A. He never did.

Q. In any way, directly or indirectly?

A. No, sir.

Q. Did you see Chaffee frequently between the 5th of September, 1850, and this transfer to Day?

A. Very seldom.

Q. Did you see him occasionally?

A. I presume I have.

Q. You saw him at Trenton?

A. I recollect of seeing him there.

Q. You were present at the execution of this license of the Malden Co.?

A. I recollect being present.

Q. Who prepared it?

A. I think Mr. Gardiner G. Hubbard.

Q. At whose suggestion was the ninth clause put in? (Reads it.)

A. I recollect Mr. Hubbard made a great point about having some distinct provision to prosecute the Chaffee patent—of having some distinct fund—

(Objected to.)

Mr. Brady stated that it might have an important bearing upon the intent of the parties at the time, and to show at whose suggestion it was put in.

The Court admitted it, not seeing its relevancy, but supposing it might have reference to other matters.

Q. Did Mr. Hubbard write it?

A. I do not know that he wrote it; my impression is that he came in the meeting with a license of his own drawing up, or done at his request. I am not acquainted with his writing. I know he was very tenacious of his lawyer opinions, and we fixed the matter very much to suit him.

Q. You remember the agreement to give a license which was read yesterday; where was that made?

A. In Judson's office.

Q. At whose request?

A. Dr. Cole, of Newark, treasurer of the Newark Rubber Co.; I think it was at a meeting to make a license to the Malden Co.; and it arose from the particularity of Mr. Hubbard in having the license made. Dr. Cole was of the opinion and anxious that we should receive a written license for the Chaffee patent, and he insisted upon it strongly, and that was the result of it; and the paper was drawn up; I recollect very distinctly, he wished the license made out at once, and that was the reason that the paper was drawn up. That is my recollection.

Q. Who drew up that paper?

A. Mr. Judson.

Q. Did Judson tell him, in answer to his demand for a license, anything about it?

(Objected to.)

Mr. Brady wanted to show that Mr. Judson told them all that no license was necessary, and that the paper was made merely at the solicitation of Mr. Cole.

The Court admitted the evidence to rebut any use that might be made of the transaction on the other side in the agreement, to show Judson's conduct in the matter.

Q. When Mr. Cole was making this urgent claim, what did Judson or any of your licensees say?

A. Mr. Judson stated, I recollect very distinctly, at that time and at many times, that no license was necessary; and we always so, I always so understood it.

Q. And that was s ated at that time?

A. Yes, sir; I have no doubt about that.

Q. Was any demand ever made of you by Chaffee, or any one in his behalf, in any manner, to pay any alleged arrear of annuity?

A. No, sir.

Q. Were you in any way notified or given to understand before this transfer to Day, that Chaffee claimed to be paid something which remained due?

A. I never had.

Q. No notice of it of any kind?

A. No, sir.

Q. When did you first know of the execution of the paper of the 12th of Nov., 1851?

A. After the sale to Mr. Day.

Q. Never heard of it before?

A. Never heard of it before.

Q. Were you present at the vote in regard to that Ackerman matter and Judson's drafts, of Sept., 1850, I believe it was? Do you remember that vote?

A. I recollect I had a great deal of conversation with Mr. Ackerman about it, he being my townsman. He was a very precise particular man. He is now dead. He was my neighbor and friend. I was the means, perhaps, of having him made trustee, because he was a very particular and precise business man; and I recollect of his talking with me about the looseness of paying money.

Q. I want you to come to any meetings at which a resolution was passed upon that subject.

A. I think there was a vote, and I think it was at the request of Mr. Ackerman.

Q. When did he die?

A. I think it is over a year ago.

Q. And then Mr. Candee was made treasurer in his place, and has so acted ever since?

A. Yes, sir.

Q. Did you see Goodyear between Sept., 1850, and Nov. 12th, 1851, frequently?

A. I presume I did see him very often.

Q. In the draft on you from Candee for this $375, the words "charge to C. E. C." occur; what did those letters mean?

A. I can state what I understood them to mean—the Chaffee extension contract.

Q. You saw Goodyear after the agreement of Sept., 1850; when was it?

A. I saw him repeatedly afterwards.

Q. I refer to the time when you had a conversation with him about that agreement.

A. I recollect of meeting him and having a conversation with him.

Q. When was it?

A. I should say it was from one to two or three months afterwards.

Mr. Richardson inquired the object of this evidence.

Mr. Brady said it was to show the adoption by Goodyear of the contract of the 5th of Sept.—his statement to these licensees on the subject of his approval of it.

(Objected to; objection overruled; exception taken.)

Q. Be good enough to state that pointedly to the jury.

A. Mr. Goodyear remarked to me that *we* had been taking the responsibility, or "you have been taking the responsibility." I asked him to what he alluded, and he spoke of the contract with Chaffee.

Mr. Richardson. That is getting in his construction of it.

The Court. I do not so understand it.

Q. Go on.

A. The substance of my reply was, we thought it was best for all parties, for all concerned—best for him and us, and he admitted that and made no objection to it, only that Mr. Chaffee—I think it was in rather a pleasant manner in the opening of the conversation; but my impression is, shaking his finger—"but I am astonished that Chaffee would make the contract without my knowledge;" he put it on the ground of courtesy.

Mr. Richardson. Now I object to that testimony—first to the question, and then to the testimony.

The Court. I admit it with the same view; I have noted the objection.

Cross-examined by Mr. Richardson.

Q. Did you give two affidavits in the motion for injunction, in the case of Candee & Co.?

A. I think I did.

Q. Were you a witness in New York?

A. I was.

Q. Did you, either in your affidavit or in your testimony, in New York, say anything about any testimony of Chaffee?

A. I can answer; I did not state it.

Q. Did you state any impression of yours that you were paying that money in advance of the instalments?

A. I did not; I will give the reason. I was very desirous not even to state the whole; I did not wish to seem to overstate; it was in my mind fully, but I doubted whether I had better swear to it. I have not now stated all the conversation that was in my mind, but I stated as much as I was willing to give as my decided recollection.

Q. (By the court.) In your interview with Chaffee?

A. Yes, sir; in New Brunswick.

Q. Will you state upon your oath that Chaffee said one word to

you in relation to the object of that payment when he came into your place?

A. That is my opinion.

Q. I ask you if you will state positively upon oath that he said one word to you upon the subject of the object of that payment?

A. I stated to the best of my belief and recollection; I have not stated positively.

Q. That he said anything about it?

A. But I will state that I believe he stated decidedly, he did.

Q. Are you certain you didn't get all your impression from the letter which accompanied that draft?

A. No, sir; I am satisfied, I had some conversation with him.

Q. But you don't recollect what that conversation was?

A. Only I am willing to state that that much was stated, to the best of my knowledge and belief.

Q. What has become of that letter?

A. I sent it to Candee. I was under the impression that it was read the other day—that letter with the "C. E. C."

Q. Have you seen it since you sent it to Candee?

A. I have not.

Q. Did you see it in New York?

A. I think I did.

Q. You have not seen it here?

A. No, sir; only I was under the impression that that was the one. I would say further with regard to the interview with Goodyear, that I stated, after I left the witness's stand, to one of the lawyers that fact—that I did not doubt that I got the impression from this interview with Chaffee. That was my first appearance on the stand.

Q. Is that the letter you received from Candee? (handing him a letter.)

A. I think it is a copy of the letter—the substance—no doubt it is the same.

Q. Isn't that the original?

A. No, sir; it is not the——

Q. Do you know it is a copy?

A. The substance is the same, I have no doubt I must have compared them.

Q. (Reads it.) Is that a copy?

A. I think so.

Q. Did that come sealed to you?

A. I do not recollect; Chaffee brought it.

Q. Did you read it in the presence of Chaffee, or to him?

A. I have no doubt I did in his presence; I do not know whether I read it aloud—when he was in the room.

Q. Are you sure that Chaffee ever saw that letter?

A. I have no doubt of it; he brought it.

Q. Did he read the contents?
A. I cannot say.
Q. Had you seen at that time the contract of the 5th of Sept'r?
A. I cannot say that I had.
Q. When can you say you first ever saw that contract?
A. I do not know that I could state that.
Q. Did you ever see it before Mr. Day purchased from Chaffee?
A. Yes, sir; I recollect that.
Q. Can you recollect when?
A. To see how the thing was conveyed; to see whether we wanted a license.
Q. When did you look at it?
A. No doubt within a year after—perhaps within three months—I will not be positive—but before the conveyance.
Q. Did you know anything about what the contract was except what Judson told you prior to his making it after the extension?
A. When I paid this money to Chaffee?
Q. Yes.
A. I presume I had not seen it; I have no doubt I had not.
Q. In the book of records of the associates, did you enter all your important business?
A. I think so; that was the custom.
Q. Have you seen that book since you have been here?
A. No, sir.

Mr. Ford recalled, and examined by Mr. Bradley.

Q. Have you manufactured vulcanized shoes, in which camphene was used in preparing the rubber, to any extent, in your factory?
A. I cannot state of my own knowledge—I am not a practical man,—only my knowledge is sufficient for me to know that we made successfully camphene vulcanized shoes.
Q. How long did you make them successfully?
A. Till we introduced steam machinery.
Q. How long in point of time, and what amount per day, did you make?
A. This was in 1845 I became interested in the business; and some time in 1846 we introduced the other machinery.
Q. How many shoes did you make a day before you used the machinery?
A. I cannot answer that only by judgment; perhaps not over a hundred pairs a day. We manufactured shirred goods in part; we were not exclusively making shoes then.
Q. Were those good shoes, so far as camphene was concerned?
A. They certainly were.
Q. They were the vulcanized shoes in the market at that time?
A. Yes, sir.
Q. Have you been liable to have your shoes injured since you took the machinery in the place of camphene?

A. We always have some shoes at the end of every season come back as imperfect; they did then, they do now, and they do every year, and we make deductions for them.

Q. What is the reason of that?

A. I have always understood it to be the want of proper vulcanization.

Q. Do you know whether other rubber manufacturers of vulcanized shoes, during that year, were using camphene as well as yourself?

A. I was never in their factories; that is to say, so I think; I have been in the Newark rubber factory, and saw them use camphene, and I understood they used no other machinery, and saw no other.

Cross-examined by Mr. Richardson.

Q. Didn't your shoes blister in 1845, '6 and '7?

A. Yes, sir, and they blistered since that.

Q. Didn't they blister from the camphene in them?

A. I never understood that that was the only cause.

Q. Did you ever see any vulcanized?

A. O yes; I often go to the factory and have a talk with the superintendent.

Q. The camphene shoes?

A. Yes, sir.

Q. You never understood that was the case?

A. I do not know that I understood that to be the case.

Q. Don't you know it was considered in your factory the cause of their blistering?

A. Not that alone.

Q. One of the causes?

A. You may say a part of the cause is this: In rolling the shoe, if you don't get the air all out the shoe will blister; if the workmen don't get out the air between the layers it will blister.

Q. Has that anything to do with the camphene?

A. No, sir.

Q. Did you not understand in the trade that camphene-made shoes were likely to blister?

A. No, sir, I know we made very good shoes.

Q. You never had any such idea?

A. I never heard such idea broached, that vulcanized goods were not good with camphene in them till I came here.

("C.")

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth, that the said Chaffee, for, and in consideration of, the sum of three thousand dollars, to be paid to him as hereinafter described, specified, hath sold, assigned and set over,

and by these presents doth hereby assign and transfer all his right, title, in and to the improvements or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredients, and heat. And the said Chaffee further agrees to apply with, or in behalf of said Goodyear for patents in the United States for said invention, at the expense of said Goodyear.

Said Chaffee further agrees, that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same, for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to the said Chaffee, the sum of three thousand dollars upon the following terms, viz.: one-half of the aforesaid sum or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee, upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first named sum of fifteen hundred dollars is also to be paid within one year from the date hereof.

The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer or conveyance of his right, title, and interest in said patents to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until said three thousand dollars shall be paid by the said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sum of three thousand dollars shall be paid *for* or secured *upon* the patent and improvement on shellac.

In witness whereof, we have hereunto set our hands and seals, this twenty-third day of May, one thousand eight hundred and fifty.

CHARLES GOODYEAR,
EDWIN M. CHAFFEE.

Witness,
JAMES A. DORR.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this paper writing was produced and shown to the witnesses John R. Ford and Johnston Letson, and by them deposed to at the time of the examination, before

ROBERT CAMPBELL,
Notary Public and Commissioner.

The counsel for the complainant read the answers of the witness Letson to the 10th and 20th cross-interrogatories only, and the answers of the said witness to the 9th and 19th cross-interrogatories were read by the counsel for the said defendants.

The answers of the witness Ford to the cross-interrogatories to him were not read by either party.

City and County of New York, *ss.*

Depositions of witnesses produced, sworn, and examined, the twenty-sixth day of September, in the year one thousand eight hundred and fifty-five, at the city of New York, under and by virtue of a commission issued out of the Circuit Court of the United States for the Southern District of New York, Second Circuit, in a certain cause therein depending and at issue between Horace H. Day, complainant in equity, and The Union India Rubber Company, defendants, as follows:

Johnston Letson, of New Brunswick, in the State of New Jersey, President of the New Brunswick Rubber Company, aged forty-nine years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the defendants, doth depose and say as follows, viz.:

Answers to Interrogatories—1st. I reside at New Brunswick, New Jersey, and am now president of the New Brunswick Rubber Company.

2d. There was such a company in New Brunswick, known as Ford & Co.; I think it was not incorporated; I was not a member of the copartnership doing business under that style; the company was formed for the manufacture of india rubber goods.

3d. Ford & Co. did manufacture boots and shoes of rubber under a license or licenses from Charles Goodyear. I have never seen the license or licenses; I did not belong to either of the companies referred to in the interrogatory; I have not the original license or licenses of the four associate companies, and do not know where they are.

4th. The company to which I belong, has been in the use of said Charles Goodyear's and said Chaffee's patented improvements for the preparation of india rubber for manufacturing purposes since the deed and organization of the company, 1850. We have continued the use

of said improvements to the present time, and since said extension of said Chaffee's patent, the same as before; said Chaffee never objected to the same before said alleged conveyance, to my knowledge or belief.

5th. I have so understood.

6th. And that Leverett Candee is the present trustee; our company paid a certain tariff on every pair of shoes we manufactured.

7th. Is directed to John R. Ford and not to this witness.

JOHNSON LETSON.

Answers to Cross-Interrogatories.—1st and 2d are directed to John R. Ford only, and not to thiswitness.

3d. Mr. Day has sued the New Brunswick Company, of which I am president, for an alleged infringement of the said Chaffee's extended patent.

4th. I have not so paid money.

5th. Is directed to John R. Ford only, and not to this witness.

6th. We do, and have ever since the formation of our company.

7th. I have not said that we did not use Chaffee's invention.

8th. Is directed to John R. Ford only, and not to this witness.

9th. We paid a tariff to Leverett Candee, for which we received a right to use all said improvements.

10th. We pay nothing but the tariff above-mentioned in answer to the last interrogatory. It is paid every six months to Leverett Candee, as above stated; it is usually sent to him at his office in New Haven, Connecticut; it is three and a half cents per pair; the agreement is in writing.

11th. Is directed to John R. Ford only, and not to this witness.

12th. I have understood that there was a contract between Goodyear and Chaffee; but, in regard to the particular contract, a copy of which is annexed to this commission, and marked "C," I have no personal knowledge.

13th. I know nothing about it.

14th. I have no personal knowledge.

16th. No.

17th. I was not present; do not know who paid them; as I have before stated, I have no personal knowledge of the matter.

18th. I have not.

19th. We paid nothing but the tariff to the trustee, which I have before mentioned.

20th. I have no personal knowledge of the payment of said expenses.

21st. I do not.

JOHNSON LETSON.

Examination taken, reduced to writing, subscribed by the witness, and sworn to by the witness, this 26th day of September, 1855.

LEONARD W. GODDARD, Notary Public.
ROB'T. B. CAMPBELL, Notary Public.
} Commissioners.

City and County of New York, *ss.*

The deposition of John R. Ford, a witness produced, sworn and examined, on the 27th day of September, in the year 1855, at the city of New York, under and by virtue of a commission issued in a certain cause, depending in the Circuit Court of the United States for the Southern District of New York, and at issue between Horace H. Day, complainant in equity, and the Union India Rubber Company, defendants.

John R. Ford, of New Brunswick, in the State of New Jersey, treasurer of the Ford Rubber Company, aged twenty-one years and upward, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined on the part of the defendants, doth depose and say as follows, viz.:

Answers to Interrogatories: 1st. I reside at New Brunswick, in the State of New Jersey, and am treasurer of the Ford Rubber Company.

2d. Ford & Co. was a partnership company not incorporated, merged into the Ford Rubber Company under the general manufacturing law of the State of New Jersey, April 1st, 1853. Ford & Co. and the present company were and are engaged in the manufacture of boots and shoes from rubber.

3d. We carried the business on under a license from Charles Goodyear, and were entitled to use all improvements which said Goodyear was or might become possessed of, which included the Chaffee patent, and all other patents which said Goodyear might become possessed of, applicable to this manufacture. The original license or licenses are, I believe, in the hands of Mr. Candee, the trustee, at New Haven, Connecticut. The exhibit A[a] hereunto annexed, is, I believe, a copy.

4th. We have been; we commenced under Goodyear's patents, about August, 1845, and were among the first to adapt Chaffee's machinery to this manufacture, and render it of practical value; this was, I think, some time in 1846. We have continued the use thereof to the present time. Said Chaffee never did, until said alleged conveyance to Day.

5th. I did know of said application, a short time before the expiration of said patent.

6th. I know there was such a fund; I am not able to state the amount thereof. Jonathan C. Ackerman was the first trustee of said

fund, Leverett Candee is the present trustee. Our company has contributed to said fund. The trustee has such right.

7th. I believe I gave such a deposition: It was drawn by Rodgers S. Baldwin, Esq., late Governor of the State of Connecticut. I believe I swore to the same before the said commissioner. The facts stated in said copy, now shown me, are true, so far as the same are found in said original deposition.

JOHN R. FORD.

The further examination of this witness is hereby adjourned until the 1st of October next, at 9½ o'clock, A.M., at the same place.

LEONARD W. GODDARD,
ROBT. B. CAMPBELL.

Answers to Cross-Interrogatories.—1st. I was a witness in the cause mentioned in this interrogatory; I did testify in that cause; I was called by the defendants therein; the title of Chaffee's extended patent was on trial in that cause.

2d. The paper mentioned I believe to be a copy of my testimony in that case; that it is correct, that the statements therein were made by me, and that they are true.

3d. Mr. Day has commenced a suit against myself and others, individually, within forty days, but I have not yet seen the bill of complaint.

4th. I have not, unless said Hartshorn or others have a claim on the fund mentioned in my answer to direct interrogatory number six.

5th. I was not engaged in making experiments, as inquired about in this interrogatory; I had nothing to do with the suit except giving my testimony.

6th. We use what is termed the Chaffee process, and have used it since 1846.

7th. I am not aware that I have ever said that we did not use what is termed Chaffee's invention.

8th. I was not a witness in that suit as to the validity of the patent.

9th. In our agreement with Goodyear, we bargained for all the inventions and improvements applicable to the manufacture of boots and shoes which he became possessed of, and this included the Chaffee patent, and we paid him for all, and not for any one in particular.

10th. This question is answered by my answer to the 9th cross-interrogatory, and the exhibit A[a] hereto annexed.

11th. I believe that I did not testify as inquired in this cross-interrogatory, and I believe that I said nothing on the subject of payment for the use of the patent before its extension.

12th. I always understood that the extension of the patent was to be for the benefit of Goodyear and his licensees; but I do not recol-

lect whether I knew the exact nature of the contract referred to in this cross-interrogatory.

13th. I know of no other contract than the understanding that I referred to in my answer to the 12th interrogatory.

14th. I know that Mr. Judson was engaged in taking testimony in relation to the extension of the Chaffee patent, and that is all I have personal knowledge of.

15th. I have not.

16th. I know that William Judson, as the attorney of Goodyear and his licensees, was empowered to use the fund which I have already referred to for that purpose, and suppose he did so.

17th. I do not recollect being present on any such occasion.

18th. I have seen no money paid in my presence, for that purpose, that I recollect.

19th. I have paid nothing, that I recollect, for that purpose, except, as I suppose, through the fund.

20th. I have no personal knowledge.

21st. I cannot now think of anything.

JOHN R. FORD.

Examination taken, reduced to writing, subscribed by the witness, and sworn to by the witness, the twenty-seventh day of September, and the first day of October, one thousand eight hundred and fifty-five.

LEONARD W. GODDARD, Notary Public.
ROB'T. B. CAMPBELL, Notary Public.
} Commissioners.

Exhibit A[a].

(Referred to in the deposition of J. R. Ford, hereunto annexed.)

Indenture of assignment and agreement, made the 1st day of July, 1848, by and between Charles Goodyear of the one part, and Leverett Candee, as general partner in a special partnership located at New Haven, in the State of Connecticut, and doing business under the name and firm of "Leverett Candee," The Hayward Rubber Company, so called, being a manufacturing company, incorporated by the laws of the State of Connecticut, The Newark India Rubber Manufacturing Company, located in Newark, New Jersey, being a company duly incorporated by the laws of the State of New Jersey, and Ford & Co., of New Brunswick, New Jersey, of the second part:—

Witnesseth, That I, the said Charles Goodyear, the party hereto of the first part, for the consideration and on the terms herein mentioned, do bargain, sell, alien, assign, and make over and convey to the said parties of the second part, the sole and exclusive right to use all my preparations of india rubber, and all my improvements in

the preparations and use of india rubber, in the manufacture of boots and shoes of all kinds; and also all preparations and improvements in the preparation of india rubber in which I, the said Goodyear, have or may have any interest by contract, assignment, or otherwise, so that they, the said parties, shall have the sole and exclusive use in the shoe business of all my improvements patented or to be patented, and whether patented or not, for and during the unexpired term or terms of my said patents, and of all patents issued, or which may be issued to me, bearing any date whatever, and of all or any renewals thereof, or of any of them, and of all which may be issued to any other person or persons for improvements made by me, and for and during the unexpired term of any patents or renewals of patents owned by me, or which may hereafter be owned by me, or in which I have or may have any interest, issued or hereafter to be issued, embracing herein all future improvements and preparations of india rubber of every description, whether patented or not, so far as the same are or may be applicable to the manufacture of boots or shoes, or may or can be used therein; and also all tariffs, benefits, or advantages, reserved, covenanted, or secured to me by, in, or under any licenses or agreements for the use of such improvements in the manufacture of boots or shoes given or made to or with any person or persons, company or companies whomsoever; all such licenses and agreements are hereby assigned to the said parties hereto, and said Goodyear covenants that he will do nothing to prevent, molest, or hinder, or deprive the said parties of the second part of the full enjoyment of the same.

And it is further covenanted and agreed, that the said parties of the second part will do all that may be proper and necessary to sustain said patents, and defend the same against piracies and infringements, which is to be done at their expense. And they are to pay the costs and have the avails of all suits which they may commence in my name or otherwise, and liberty and authority is hereby given to use my name in all cases where it may be deemed by counsel, S. P. Staples, or William Judson, necessary or proper: the said parties of the second part saving me from all costs. In consideration of the premises, the said parties of the second part agree to pay said Goodyear the sum of ten thousand dollars in cash, or notes made equal to cash, and also to pay said Goodyear, during the continuance of this agreement, one half cent, or five mills, on each pair of boots or shoes which may hereafter be manufactured by them, or any one under them, under this agreement, and so long as said patents shall continue or be continued in force by general extension or otherwise, or until said patents are set aside by the courts of the United States, in the last resort, and so long as this agreement remains in force, all the shoe business in which india rubber is used as a component part thereof, shall be deemed to be taken and carried on under this agreement and license. Further, said Good-

year agrees to do all that may be legal or proper, by and with the advice of his counsel, to amend if necessary, any of his said patents, and to secure more perfectly any of his said improvements, so that said grantees and licensees shall have, so far as possible, the sole and exclusive use of said improvements for the shoe business, as aforesaid.

And said Goodyear further agrees to make any other and more formal instruments, deemed advisable by counsel, to carry out this memorandum of an agreement. The term my improvements, as used in this agreement, to extend to all improvements and patents in which I am or may become interested. Said licensees are to stamp all goods by them made and sold, "Goodyear's Patent."

And it is further agreed, that if there should be any surplus of the fifteen per cent. provided and set apart for certain purposes, by an agreement with said Staples and Judson, after satisfying said purposes, then said parties herein of the second part shall have the benefit of it, towards aiding them in the expenses they may be at in prosecuting the suits hereinbefore contemplated, so far as the same may go; but all other expenses they are to have in any event, without recourse to said Goodyear.

In witness whereof, the parties have executed these presents, this first day of July, one thousand eight hundred and forty-eight.

In presence of

CHARLES GOODYEAR, [L. S.]
LEVERETT CANDEE,
HAYRD RUBBER CO.,
By HENRY BURR,
President.
HIRAM HUTCHINSON,
President.
JOHN SCOTT ROUSE, [L. S.]
Secretary.
FORD & CO.

The words "parties of the second part," interlined in the second page, over Candee and Hayward, erased, and the word "or," substituted before execution.

SAMUEL CASSEDY.

State of New Jersey, Hudson County, *ss.*

Personally appeared before me, the subscriber, a Master in Chancery in and for said State, Charles Goodyear, who, I am satisfied, is the grantor named in, and who executed the foregoing, and to whom I first made known its contents; he thereupon acknowledged he had signed, sealed, and delivered it as and for his voluntary act and deed, for the uses and purposes therein expressed.

Acknowledged before me this 10th July, 1848.

SAMUEL CASSEDY,
Master in Chancery.

Rec'd and rec'd, August 14th, 1848.

At the execution of a commission for the examination of witnesses, between Horace H. Day, complainant, and the Union India Rubber Company, defendant, this paper writing was produced by the witness John R. Ford, and by him deposed unto at the time of the examination before us,

LEONARD W. GODDARD,
ROBT. B. CAMPBELL,
Commissioners.

The counsel for the said defendants here rested their cause.

The counsel for the said complainant then offered in evidence the record from the clerk's office of the Circuit Court of the United States for the District of Rhode Island, of the case at law of Horace H. Day *v.* Isaac Hartshorn, *et al.*, and of the opinion of the said court on the demurrers in the said cause, which record was as follows:

Circuit Court of the United States, for the District of Rhode Island. Horace H. Day *v.* Isaac Hartshorn, *et al.* Trial at Law with a Jury. November Term, A. D. 1854. N. Richardson, T. A. Jenckes, and Richard W. Greene, for plaintiff; James T. Brady, Charles S. Bradley, Samuel Ames, Abraham Payne, and Joseph S. Pittman, for defendant, New York: John F. Trow, Printer, 49 Ann Street, 1855.

United States Circuit Court, Rhode Island District.

HORACE H. DAY
v.
ISAAC HARTSHORN, *et al.* } In Law.

Be it remembered, that on the third day of November, A. D. 1853, the following writ and declaration were filed of record in the clerk's office of said court:

Writ.

Rhode Island District, *sc.*

The President of the United States of America, to the Marshal of said district, or to his deputy, greeting:

We command you to summon Isaac Hartshorn and Daniel Hayward, of the city and county of Providence, State of Rhode Island, *sc.*, and both citizens of said State of Rhode Island, and Nathaniel Hayward, of Colchester, in the State of Connecticut, a citizen of the State of Connecticut, copartners transacting business at said Providence, under the firm of Hartshorn & Company, if they may be found in your district, to answer the complaint of Horace H. Day, of the city, county, and State of New York, and a citizen of the State of New York, at the next circuit court to be holden at Providence, within and for the Rhode Island District, on the fifteenth day of November next ensuing the date hereof, in an action of the case:

For that certain letters patent, duly issued in the name of the United States of America, according to the acts of Congress in such case made and provided, dated the 31st day of August, 1836, were granted to Edwin M. Chaffee, a citizen of the United States, for a new and useful improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, which letters patent were duly extended by the Commissioner of Patents, under the acts of Congress, on the 30th day of August, 1850, for a further term of seven years from the 31st day of August, 1850; and the said Edwin M. Chaffee, on the 1st day of July, A. D. 1853, duly sold and assigned to said plaintiff the said letters patent for the United States of America, by deed of assignment thereof, duly recorded in the Patent Office; and the said defendants, not ignorant of the premises, but contriving to injure the plaintiff in that behalf, and wrongfully to deprive him of the benefit of said patent right, after the assignment of said letters patent by aforesaid, and since the fourteenth day of July last, have made and used, and vended to others to be used, the invention aforesaid, so made and secured by letters patent as aforesaid, and have, to the date of the plaintiff's writ, continued so as aforesaid to make and use, and vend to others to be used, the said invention and improvement, so patented as aforesaid, and have infringed the patent right so secured by said letters-patent, and belonging to said plaintiff, contrary to the statute in such case made and provided, and other wrongs to the plaintiff have done and committed, as by the declaration to be filed in court will be fully set forth, to the damage of the plaintiff five thousand dollars. Hereof fail not, and make true return of this writ, with your doings thereon. Witness the Hon. Roger B. Taney, our chief justice, at said Providence, this 24th day of October, Anno Domini 1853.

JOHN T. PITMAN,
Clerk.

United States of America, Rhode Island District, *sc.*

Oct. 25, 1853.

Made service of the within writ by leaving true and attested copies hereof at the last and usual places of abode of Isaac Hartshorn and Daniel Hayward; the within-named Nathaniel Hayward was not to be found by me within my district.

Circuit Court of the United States, Rhode Island District, *sc.*

HORACE H. DAY
v.
ISAAC HARTSHORN, *et al.*
} November Term, A. D. 1853.

Declaration.

Horace H. Day, of the city, county, and State of New York, and a

citizen of the State of New York, complains of Isaac Hartshorn and Daniel Hayward, of the city and county of Providence, and State of Rhode Island, *&c.*, and both citizens of said State of Rhode Island (Nathaniel Hayward, of Colchester, in the State of Connecticut, a citizen of said State of Connecticut, being named as defendant in said plaintiff's writ, but not summoned), copartners, transacting busi ess at said Providence, under the firm of Hartshorn & Company, duly summoned by the Marshal, in an action of the case: For that Edwin M. Chaffee, a citizen of the United States, was the original and first inventor and discoverer of a new and useful improvement in the application of undissolved caoutchouc to cloth, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, as set forth in the letters patent hereinafter mentioned and described, the same being a new and useful improvement, and not known or used before his said invention and discovery, and not at the time of his application for a patent therefor, as hereinafter mentioned, in public use, or on sale with his consent or allowance; and the said Chaffee, being so as aforesaid the original and first inventor thereof, made application, in due form of law, to the Commissioner of Patents for the United States, for a patent for said improvements, and paid thereon the patent fee of thirty dollars, and presented a model, specification, and drawings, describing his aforesaid invention and improvements, and such proceedings were had thereon that letters patent were granted unto said Chaffee, under seal of the Patent Office of the United States, signed by the Secretary of State, and countersigned by the Commissioner of Patents of the United States aforesaid, dated the thirty-first day of August, A.D., 1836, whereby the exclusive right and liberty to make, use, and vend to others to be used within the United States aforesaid, the said improvements and invention were secured to him, the said Chaffee, his heirs, administrators, and assigns, for the term of fourteen years next after the date of said letters patent, as will appear by said letters patent, ready to be produced in court, and which are of the following import, and to the following effect, viz.:

The United States of America, to all to whom these letters patent shall come:

Whereas, Edwin M. Chaffee has alleged that he has invented a new and useful improvement in the application of undissolved caoutchouc to cloths, leather, and other articles, in coloring the same without the aid of a solvent, and in the machinery used in the process, which he states has not been known or used before his application; has made oath that he is a citizen of the United States; that he does verily believe that he is the original and first inventor or discoverer of the said improvement, and that the same hath not, to the best of his knowledge and belief, been previously known or used; has paid into the Treasury of the United States the sum of thirty

dollars, and presented a petition to the Commissioner of Patents, signifying a desire of obtaining an exclusive property in the said improvement, and praying that a patent may be granted for that purpose.

These are, therefore, to grant, according to law, to the said Edwin M. Chaffee, his heirs, administrators, or assigns, for the term of fourteen years from the thirty-first day of August, one thousand eight hundred and thirty-six, the full and exclusive right and liberty of making, constructing, using and vending to others to be used, the said improvement, a description whereof is given in the words of the said Edwin M. Chaffee, in the schedule hereunto annexed, and is made part of these presents.

In testimony whereof, I have caused these letters to be made patent, and the seal of the Patent Office has been hereunto affixed.

Given under my hand at the city of Washington, this thirty-first day of August, in the year of our Lord one [L. S.] thousand eight hundred and thirty-six, and of the Independence of the United States of America the sixty-first.

JOHN FORSYTH,
Secretary of State.

Countersigned and sealed with the seal of the Patent Office.

HENRY L. ELLSWORTH,
Commissioner of Patents.

The Schedule referred to in these Letters Patent, and making part of the same.

To all to whom these presents shall come:

I, Edwin M. Chaffee, of Roxbury, in the county of Norfolk, and commonwealth of Massachusetts, send greeting:

Be it known, That I, the said Edwin M. Chaffee, have invented, made, and applied to use a new and useful improvement in the preparing, coloring, and applying the india rubber to cloth of all kinds, leather, and other articles, without the use of a solvent, which I call "Chaffee's Improvement in Rubber," specified in the words and figures following, and exhibited in the drawings annexed. The india rubber undergoes an operation preparatory to its being applied to the cloth and other articles, and the following is a description of that part of the machinery and apparatus employed for the purpose: A hollow cylinder, or roller, six feet long, and twenty-seven inches in diameter, heated by steam or otherwise to about two hundred degrees of Fahrenheit, is surmounted by another cylinder of like length, and heated in like manner, and eighteen inches in diameter. The large and small cylinders come in contact with each other on one side at about ten inches distant from the top of the large one. The large cylinder revolves much faster than the small one, so that there is a

compound rolling and slipping action between the cylinders. Five bars are placed on the top of the large cylinder, side by side each other, leaving a space of about three-fourths of an inch between them. The bars are one and a half inch thick, twelve inches wide, and about six feet long. The edges, which lie in contact with the cylinder, are convex or circular, and so constructed that when one corner of the edge touches it, the other recedes from it, thus leaving a wedge-like space for the rubber to enter between the bars. What I mean by the corner of the edge is, the angles formed by the two sides of the bars and their circular edges, the one being an acute, and the other an obtuse angle, which are more or less acute or obtuse according to their situation on the cylinder—the said bars being substitutes for so many cylinders—but are better to sifting the coloring between them; they are held in contact with the cylinder, or nearly so, by weights or screws arranged for the purpose. If the rubber is to be colored, the coloring matter, in fine powder, should be sifted or otherwise put into the spaces between the bars, where it will be incorporated with the rubber as it passes between the bars and the cylinder. A revolving apron is attached to the machine which carries the rubber between the two cylinders, or a plank may be substituted, if placed nearly in contact with the under side of the small cylinder, and the rubber put on in contact with the cylinder.

The operation of the foregoing apparatus is as follows: The rubber is first cut into pieces about two inches square, and from one-eighth to one-fourth of an inch thick; it is then spread upon the apron that conveys it to the cylinder, where the compound rolling and slipping action of the heated cylinders softens and tears the rubber into fine threads or thin sheets, which at the same time mixes with the coloring which is sifted into the spaces between the bars; thus it passes all the bars successively, and undergoes this operation several times before it goes from the preparing and coloring part of the machine to the coating or covering part of the machine.

The coating or covering part of the machine, or apparatus for applying the prepared rubber to the cloth and other articles, consists of four hollow cylinders, six feet long, heated by steam or otherwise, to about two hundred degrees of Fahrenheit, placed one above the other. For conveniently describing their operation, I number them 1, 2, 3, and 4, beginning at the bottom. No. 1 is eighteen inches in diameter; Nos. 2 and 3 are each one foot in diameter, and No. 4 is eighteen inches in diameter; No. 3 moves much slower than the others, thus creating a compound rolling and slipping action between the surfaces of No. 2 and No. 3, and also between No. 3 and No. 4; sometimes the three first cylinders only are used, in which case the gearing for driving the 4th cylinder is disengaged, and the cloth or other article to be coated is made to pass into the covering machine between the 2d and 3d cylinders, thence it passes half round the 2d

and 1st cylinders, the rubber side coming in contact with the first and passing nearly round it, whence it is taken off and rolled up. The prepared rubber is conveyed by hand or otherwise from the preparing part of the machine whilst warm, and put into the hopper, which is placed between the second and third cylinders to receive it. The hopper is about two inches narrower than the cloth or other article intended to be coated. The cloth enters between the bottom and 2d cylinder whilst the rubber enters between the bottom and 3d cylinder, when the coating of the cloth is effected. There is advantage in passing the rubber between the 3d and 4th cylinders if the coating part of the machine before it comes in contact with the cloth, which warms and softens it, so that it will adhere better to the cloth, to which, also, the rubber is presented more uniformly than when promiscuously put into the hopper. I sometimes put the prepared rubber directly upon the cloth or other article to be covered, between the 2d and 3d cylinders, and then disengage the gearing of the 3d cylinder, which will not then revolve. The bottom of the hopper in this case does not enter so far between the cylinders. The sides of the hopper must in all cases enter as far as possible without being pinched by the cylinders, to which they must be well fitted. Another mode of using this machine is as follows: The rubber alone enters between the 2d and 3d cylinders, where it is formed into a sheet, which passes half round the 2d, the cloth entering at the same time between the 2d and 1st, where the sheet of rubber is transferred from the cylinder to the cloth, then passing nearly round the first cylinder, where it is taken off and rolled up as before. In coloring I sometimes make the rubber into sheets, apply the coloring and roll the same into a mass, and then pass it through the cylinders, repeating until sufficiently colored. Again, I mix the coloring with small pieces of rubber and let them both go between the cylinders, or cylinder and bars together,—mix more and repeat until sufficiently colored, when it goes between a bar and cylinder, or between two cylinders, one going faster than the other,—the rubber comes through in fine particles so long as the coloring is added. The machine is an entire one, although in the drawings herewith, for the purpose of exhibiting more distinctly the several parts and operations, it is divided into sections, —Nos. 1 and 2, and Nos. 3 and 4. Figure 1 is the coating part of the machine, and a perspective view of it exhibited in the drawing annexed.

A A A A A A is a cast-iron frame or housing for the rollers or cylinders. B is a brace, connecting the two parts of the frame together. C C are two timbers upon which the frame stands. 2, 3, and 4 are the cylinders. No. 1 cylinder is behind the frame of bars D. D D D D D are five bars, called checks, through which the cloth passes before it enters the rolls. E is a roll upon which the cloth is wound before being coated. F is a check-weight, attached to a cord passing over roll E. G G are screws regulating the pressure of the rolls 1, 2, 3, and 4. H is a cog-wheel that drives cylinder No. 1.

I is a cog-wheel attached to the cylinder No. 4, and is driven by the wheel H. K is a cog-wheel attached to cylinder No. 3. L is a cog-wheel upon the roll No. 1. M is a pinion, matching with K and L, and serves to give the proper direction to the wheel K; L being the driving-wheel. N is a pulley attached to the roll or shaft O, seen in the sectional view. The shaft having a pinion upon its other end, which drives the cog-wheel H.

At R is seen the cloth passing between the cylinders 2 and 3. At S is seen a sheet of india rubber, which comes in contact with the cloth whilst passing between the cylinders 2 and 3. P, in the sectional view, is a roller driven by the short belt from the shaft O. Q is a small roll upon which the cloth is wound when it leaves the cylinder No. 1. It is made to revolve by resting on the rolls O and P,—the surface of O and P revolve a little faster than the cylinder No. 1. At T the cloth is seen leaving No. 1 cylinder. Between the cog-wheel H and the frame A is a cog-wheel upon the cylinder No. 1, and also one upon the cylinder No. 2,—the wheels being the same size of the cylinders to which they respectively belong. That upon No. 1 drives the one upon No. 2, and consequently the cylinder No. 2, Fig. 2, is a sectional view, the letters on which refer to the same parts as those on No. 1. U is a hopper, not seen in the perspective, into which the prepared rubber is put by hand or otherwise, while hot, as it comes from the preparing apparatus. When three rolls only are used, the hopper is put upon the opposite side of the cylinders, between No. 2 and 3. Fig. 3 is a perspective view of the preparing part of the machine A A A. A A A is a frame of cast iron. B B B B are timbers upon which the frame rests. C is a large cylinder, 6 feet long and 27 inches in diameter. D is a cylinder, 6 feet long and 18 inches diameter. E is a shaft, 6 inches diameter. M is a pinion upon the shaft E, which drives the cog-wheel K, and consequently the cylinder C. K is a cog-wheel upon the cylinder C. L is a pulley upon the shaft E, which is the first power. N is a cog-wheel upon the cylinder C, which drives the cog-wheel O upon the cylinder D. G G are screws regulating the pressure of the cylinders. F E are five bars of iron seen more distinctly in the sectional view. They are one foot wide, 1¾ inches thick, and about 7 feet long. H H are two blocks of iron, having holes in them corresponding to the end of the bars F, into which the bars are put and fastened by keys. I I are screws regulating the pressure of the bars upon the cylinder C. S is an apron or endless belt, which carries the rubber to be prepared between the two cylinders C and D (the same is more distinctly seen in the sectional view). P Q are rolls around which the apron revolves (the apparatus for propelling the rolls P Q is not represented). At R in the sectional view is seen the prepared rubber, as it leaves the last bar, and shrinks up into a mass. Fig. 4 is a sectional view, the letters of which refer to the same parts as those of Fig. 3.

What I claim as new and my invention is the preparation and

application of india rubber to all kinds of cloths, leathers, and other like substances, without the use of a solvent, in the manner aforesaid. I also claim the mixing of coloring with india rubber, without bringing it into a state of solution, in the manner above described. And I further claim the uses of the heated cylinders, with the rolling and slipping action thereof, as applicable to india rubber in the manner aforesaid, thereby preserving the strength of the rubber, and at the same time applying it to and covering cloths, leathers, and like substances, with greater facility and at less expense than by any other process heretofore known or used.

EDWIN M. CHAFFEE.

HORATIO BASS,
D. A. SIMMONS,
Witnesses.

And the plaintiff further saith, that before the expiration of the original term for which said letters patent were granted, to wit on the 30th day of August, A. D. 1850, upon the petition of said Chaffee, made in due form of law, according to the acts of Congress in such cases made and provided, the Commissioner of Patents granted to the said Chaffee an extension of said letters patent for the further term of seven years, from the 31st day of August, A. D., 1851, as will appear by said extension of said letters patent, ready to be produced in court, and which is of the following import, and to the following effect, viz.:

Whereas, upon the petition of Edwin M. Chaffee for an extension of the within patent, granted to him on the thirty-first day of August, eighteen hundred and thirty-six, the undersigned Commissioner of Patents, in accordance with the 18th section of the Act of Congress approved the 4th of July, 1836, entitled "An act to promote the progress of the useful arts, and to repeal all acts heretofore made for that purpose," and the act approved the 27th of May, 1848, entitled "An act to provide additional examiners in the Patent Office, and for other purposes," did on the thirtieth day of August, eighteen hundred and fifty, certify that said patent ought to be extended.

Now, therefore, I, Thomas Ewbank, Commissioner of Patents, by virtue of the power vested in me by said acts of Congress, do renew and extend said patent, and certify that the same is hereby extended for the term of seven years, from and after the expiration of the first term, viz.: the thirty-first day of August, eighteen hundred and fifty; which certificate, on the petition of the applicant, together with this certificate, having been duly entered of record in the Patent Office, the said patent has now the same effect as though the same had been originally granted for the term of twenty-one years.

In testimony whereof, I have caused the seal of the Patent Office to be hereunto affixed, this thirtieth day of August, one

[L. S.] thousand eight hundred and fifty, and of the Independence the seventy-fifth.

THOMAS EWBANK,
Commissioner of Patents.

Whereby the exclusive right and privilege to make, use, and vend to others to be used, said invention and improvement, were secured to the said Chaffee, his heirs, administrators, and assigns, for the term of seven years next after the expiration of the original term for which said letters patent were granted.

And the plaintiff further saith, that the said Chaffee, afterwards, to wit, on the first day of July, A. D. 1853, for a valuable consideration therein expressed, to him paid by the said plaintiff, sold and assigned to the said plaintiff, his heirs, administrators, and assigns, all his said Chaffee's right, title, and interest in and to said letters patent so extended as aforesaid, and to said improvements and invention, by his deed of assignment thereof, duly executed and recorded in the Patent Office of the United States aforesaid, according to the statute in such cases made and provided, whereby all the rights and privileges which were secured to the said Edwin M. Chaffee, his heirs, administrators, and assigns, by said letters patent, and the extension thereof as aforesaid, accrued to the said plaintiff, his heirs, administrators, and assigns, as will by said assignment, to be produced in court, appear.

And the plaintiff further saith, that the defendants, well knowing the premises, but contriving and intending to injure the said plaintiff in that behalf, and wrongfully to deprive him of the benefit of said patent right, so secured to the said plaintiff by the assignment of said letters patent from said Chaffee as aforesaid, heretofore, to wit, at said Providence, within said District of Rhode Island, on the fourteenth day of July, A.D. 1853, and on divers days since that time, and until the commencement of this suit, have used and continue to use said improvements, and have, by the use of said improvements, prepared and applied large quantities of india rubber to wit, two hundred and fifty tons, to all kinds of cloths, leathers and other like substances, without the use of a solvent, according to the plan and directions contained in said letters patent, and the process therein described; and also have prepared large quantities of india rubber, to wit, two hundred and fifty tons, by mixing the coloring with the same without bringing it into a state of solution, in manner as described in said letters patent; and also have prepared large quantities of india rubber, to wit, two hundred and fifty tons, and wrought the same into articles of merchandise, according to the plan and process described in said letters patent, and the same have sold, whereby the said plaintiff has been greatly injured and deprived of great profits and advantages, which he might and otherwise would have derived from said invention and letters patent so secured to him as aforesaid, and has sustained actual damage to the amount of

five thousand dollars; and by force of the statute aforesaid, an action hath accrued to the plaintiff to recover of the defendants said actual damage and such additional amount, not exceeding in the whole three times the amount of such actual damage, as the court may see fit to order and adjudge.

Yet the said defendants, though often requested, have refused and still do refuse to pay such sum or any part thereof.

To the plaintiff's damage five thousand dollars, as laid in his writ, dated the 24th day of October, A.D. 1853.

Wherefore he sues by his attorney.

T. A. JENCKES.

Circuit Court of the United States, Rhode Island District, *ss.*

HORACE H. DAY
v.
ISAAC HARTSHORN et al.

And the said defendants come and defend the wrong and injury, when, &c., and say they are not guilty of the said supposed grievances in plaintiff's declaration laid to their charge, or any or either of them, or any part thereof, in the manner and form as the said plaintiff hath in said declaration thereof complained against them; and of this the said defendants put themselves upon the country, &c.

By their attorneys,

S. AMES,
C. S. BRADLEY, and
J. S. PITMAN.

And the defendants, in addition to the matters ordinarily put in issue under said above plea, give notice to the plaintiff, that they shall produce at the trial the declarations of the plaintiff, and put in proof the acts of said plaintiff, before, during, and since the application at the Patent Office for the extension of the patent originally granted to E. M. Chaffee, in 1836, and particularly referred to in the plaintiff's declaration; and also the testimony adduced before the Commissioners of Patents on the hearing for said extension, by or through said plaintiff, and other declarations and acts of said plaintiff since the extension of the said patent, at the Patent Office and elsewhere.

Second Plea.

And for a further plea in this behalf the said defendants, by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that before the said alleged assignment of the said letters patent by said Edwin M. Chaffee, to the said plaintiff, to wit, on the twenty-third day of May, in the year

one thousand eight hundred and fifty, to wit, at New York, in the Southern District of New York, the said Edwin M. Chaffee made and entered into an agreement in writing, sealed with the seal of him the said Edwin M. Chaffee, and now shown to the said Court here, the date whereof is the day and year last aforesaid, and of which a counterpart executed by said Goodyear was at the execution thereof delivered to said Chaffee, which said agreement in writing is to the purport and effect following, that is to say:

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth: That the said Chaffee, for and in consideration of the sum of three thousand dollars, to be paid to him, as hereinafter specified, hath sold, assigned and set over, and by these presents doth hereby assign and transfer all his right, title and interest in and to the improvement or invention of compounding and mixing gum-lac or shellac, with india rubber, either with or without sulphur or other ingredients, and heat.

And the said Chaffee further agrees to apply, either with or in behalf of said Goodyear, for patents in the United States, for said invention, at the expense of said Goodyear; said Chaffee further agrees that the said Goodyear may proceed to take out patents in all foreign countries, for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear on his part agrees to pay to the said Chaffee the sum of three thousand dollars, upon the following terms, viz.: one-half of the aforesaid sum of fifteen hundred dollars, at the time of the issuing of a patent for said improvement in the United States; or if a patent should be previously granted as a renewal of his, said Chaffee's, patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee upon the assignment of said patent, for said machinery, to said Goodyear, the remaining one half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first-named sum of fifteen hundred dollars is also to be paid within one year from the date hereof. The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents, for shellac and machinery, he will immediately assign the same to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer or conveyance of his right, title, and interest in said patent to said Chaffee as shall prevent any valid transfer of any rights or interests in said patents, by the said Goodyear, until the said three thousand dollars shall be paid by the said Goodyear.

It is further understood that said Chaffee may reserve to himself

the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the whole sum of three thousand dollars shall be paid for, or secured upon, the patent and improvement for shellac.

In witness whereof, we have hereunto set our hands and seals, this 23d day of May, A. D. 1850.

EDWIN M. CHAFFEE, [L. S.]
CHARLES GOODYEAR, [L. S.]

Witness,
JAMES A. DORR.

As by the said agreement in writing may more certainly appear. And the said defendants further, in fact, say, that the said patent in the said declaration mentioned, and said Chaffee's patent for india rubber machinery, mentioned in the said agreement in writing set forth in this plea, are one and the same patent; and that the renewal and extension of the said patent in the said declaration mentioned is the same renewal of his, said Chaffee's, patent for india rubber machinery mentioned, contemplated, and intended in and by the said agreement in writing set forth in this plea; and the said defendants further, in fact, say, that before and at the time of the extension of said patent of said Chaffee, and at all times after such extension, and to the time of the commencement of this suit, they the said defendants, with the license and permission of said Goodyear, used the said improvements of said Chaffee, for which he obtained his said patent, which was so extended as in the said declaration mentioned; and that they used, with the like license and permission of said Goodyear, the machines mentioned in the plaintiff's declaration, at the times and to the manner and extent stated and complained of in the said declaration, as they lawfully might for the cause aforesaid; and this the said defendants are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against him, &c.

Third Plea.

And for a further plea in this behalf, by leave of the court here for that purpose first had and obtained, according to the form of the statute in such case made and provided, the said defendants say, that the said plaintiff ought not to have or maintain his aforesaid action against them, because they say that before the said alleged assignment of the said letters patent by the said Edwin M. Chaffee to the said plaintiff, to wit, on the twenty-third day of May, in the year one thousand eight hundred and fifty, to wit, at New York, in the southern district of New York, the said Edwin M. Chaffee made and entered into an agreement in writing with one Charles Goodyear, sealed with the seal of him the said Edwin M. Chaffee, and now

shown to the said court here, the date whereof is the day and year last aforesaid, a counterpart of which, executed by said Goodyear, was at the date last aforesaid delivered to said Chaffee, and which last-mentioned agreement in writing was to the purport and effect following, that is to say:

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth, that the said Chaffee, for and in consideration of the sum of three thousand dollars, to be paid to him as hereinafter specified, hath sold, assigned, and set over, and by these presents doth hereby assign and transfer all his right, title, and interest in and to the improvement or invention of compounding and mixing gum lac or shellac with india rubber, either with or without sulphur, or other ingredients, and heat.

And the said Chaffee further agrees to apply, either with or in behalf of said Goodyear, for patents in the United States for said invention, at the expense of said Goodyear; said Chaffee further agrees, that the said Goodyear may proceed to take out patents in all foreign countries for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same, for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear, on his part, agrees to pay to the said Chaffee the sum of three thousand dollars, upon the following terms, viz.: one-half of the aforesaid sum of fifteen hundred dollars at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's, patent for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee upon the assignment of said patent, for said machinery, to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first-named sum of fifteen hundred dollars is also to be paid within one year from the date hereof. The said Chaffee, upon his part, agrees, further, that upon the issuing of one or both of the aforesaid patents, for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer, or conveyance of his right, title, and interest in said patent to siad Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until the said three thousand dollars shall be paid by the said Goodyear.

It is further understood that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the

whole sum of three thousand dollars shall be paid for, or secured upon, the patent and improvement for shellac.

In witness whereof, we have set our hands and seals this 23d day of May, A.D. 1850.

EDWIN M. CHAFFEE, [L. S.]
CHARLES GOODYEAR, [L. S.]

Witness,
JAMES A. DORR.

As by the said last-mentioned agreement in writing may more certainly appear. And the said defendants further, in fact, say, that before the said alleged assignment to the said plaintiff, that is to say, on the 5th day of September, in the year one thousand eight hundred and fifty, to wit, at the place aforesaid, the said Edwin M. Chaffee made and entered into a certain other agreement in writing, with one William Judson, sealed with the seal of him the said Edwin M. Chaffee, and now shown to the said court here, the date whereof is the day and year last aforesaid, a counterpart of which agreement, executed by said Judson, was at the date last aforesaid delivered to said Chaffee, which last mentioned agreement in writing is to the purport and effect following—that is to say:

Whereas, I, Edwin M. Chaffee, have lately procured an extension of my patent, dated August 31, 1836, for seven years from the expiration thereof, the expenses of which have been large, by reason of the opposition thereto—but which expenses have not yet been ascertained, and cannot be at present.

And whereas said patent, at the time it was extended, stood in the name of Charles Goodyear, and was held for his benefit, and the benefit of those who had a license, or who had a right to use his metallic or vulcanized india rubber, or india rubber prepared and cured according to and under his patent, dated June 15, 1844, and reissued December 25, 1849.

And whereas said Charles Goodyear agreed with me, for himself and others using my said patent under him, that they would be at the expense of applying for said extension of said patent, and make me an allowance for the use thereof, in case the same should be extended, at and after the rate of twelve hundred dollars per annum, to commence on the 31st of August, 1850, and payable quarterly—that is to say, three hundred dollars on the 1st days of December, March, June, and September, in each and every year during the present or any further extension of said patent, and during any reissue of the same, and until said patent or any reissue thereof shall be set aside as void in the highest court to which the same can be carried.

And whereas William Judson, Esq., has had the management of said application for said extension, and has paid and become liable to pay the expenses thereof, and agreed to guarantee me the payment

of said sums of money, according to the terms and at the times above specified.

Now I do hereby, in consideration of the premises, and to place my patent so that, in case of my death or other accident or event, it may enure to the benefit of said Charles Goodyear and those who hold a right to the use of said patent, under and in connection with his licensees, according to the understanding of the parties interested, nominate, constitute, and appoint, said William Judson my trustee and attorney irrevocable, to hold said patent and have the control thereof, so that no one shall have a license to use said patent or invention, or the improvements secured thereby, other than those who had a right to use the same when said patent was extended, without the written consent of said Judson first had obtained.

And said Judson for himself and those interested, agrees with me, said Chaffee, my executors, administrators and assigns, that the expenses of extending said patent shall all be paid without charge to me; and further, that I shall be paid sums of money, at the times and according to the terms above-recited; and said Judson, and those for whom he acts, are to be at all the expense of sustaining and defending said patent, without any charge to me. And it is further expressly understood and agreed, that I am to have the right to use said patent and improvement in any business which I may carry on.

As witness my hand and seal, this 5th of September, 1850.

EDWIN M. CHAFFEE, [L. S.]

Witness,

GEO. WOODMAN.

As by the said last-mentioned agreement in writing may more certainly appear; which said last-mentioned agreement in writing, afterwards, and before the said alleged assignment to the said plaintiff, to wit, on the eleventh day of September, in the year one thousand eight hundred and fifty, was duly recorded in the patent office, and the said defendants further in fact say, that afterwards and before the said alleged assignment to the said plaintiff, that is to say, on the twelfth day of November, in the year one thousand eight hundred and fifty-one, the said Edwin M. Chaffee made and entered into a certain other agreement in writing, with the said William Judson, sealed with the seal of him the said Edwin M. Chaffee, and now shown to the said court here, the date whereof is the day and year last aforesaid, a counterpart of which agreement executed by said Judson was at the date last aforesaid delivered to said Chaffee, which said last-mentioned agreement in writing is to the purport and effect following, that is to say:

Whereas, it was agreed by and between William Judson and E. M. Chaffee, by an article under hand and seal, and dated the fifth day of September, 1850, which agreement was recorded at the patent office September 11th, 1850, on what terms said Chaffee would

continue to hold said patent for the benefit of said Judson and Charles Goodyear, and his licensees;

And whereas, in said agreement there was an omission to state, that if said licensees continued to use the improvements in said patent named, they should each one contribute and pay said Judson his proportion of the expenses and services expended in obtaining the renewal of said patent, which it was intended that said licensees should pay under said Judson, in case they continued the use of the said improvement for which said patent was issued, after the extension thereof;

And whereas there was no such direct, absolute stipulation, on the part of said Judson, to pay said Chaffee the sum of fifteen hundred dollars per annum, in quarterly payments, on the usual quarter-days, as said Chaffee claimed, and now insists shall be inserted in said agreement;

And whereas, it is now agreed by said Chaffee and said Judson, that said agreement shall be so modified as to secure the objects more fully intended to be secured by said agreement;

Now it is agreed that said licensees shall each pay his share of the services and expenses, to said Judson, as the condition on which they shall have the license of said Judson to use said improvements; and that on the payment of his or their share or proportion of the services and expenses aforesaid, said Judson shall be authorized to give each a license to use said improvement, on their paying as aforesaid, severally, each for himself, or his firm or company. And said agreement is further so altered, that said Judson hereby agrees to pay said Chaffee fifteen hundred dollars, in quarterly payments each year, on the usual and customary quarter-days, on the time set forth in the agreement aforesaid, to which this is an addition and alteration, commencing the quarterly payments on the first day of March next. And I agree with said Judson that he may use my name in the commencement and prosecution of all suits he may have occasion to commence to sustain said patent, or recover damages for any infringement or infringements thereof, or for any other purpose in relation to the same, or the use thereof, he holding me harmless from any costs by reason thereof, and he to have all the benefits which may be derived from such suits.

WILLIAM JUDSON, [L. S.]

Sealed and delivered this 12th day of November, 1851, in the presence of—

(The word February erased, and the word March inserted before execution—)

EDWIN M. CHAFFEE, [L. S.]

BENJ. H. JARVIS.

As by the said last-mentioned agreement may more certainly appear; which last-mentioned agreement in writing, afterwards and

before the alleged assignment to the said plaintiff, to wit, on the twenty-seventh day of November, in the year one thousand eight hundred and fifty-one, was duly recorded in the patent office. And the said defendants further in fact say, that the said patent in the said declaration mentioned, and his, said Chaffee's patent for india rubber machinery mentioned in the said agreement in writing in this plea first set forth, and the patent mentioned in the said agreement in writing in tihs plea secondly above set forth, and the said patent in the said agreement in writing in this plea thirdly above set forth, are one and the same patent; and further, that the renewal and extension of the same patent, in the said declaration mentioned, and the renewal of his, said Chaffee's, patent for india rubber machinery mentioned, intended and contemplated in and by the said agreement in writing first above in this plea set forth, and the extension of said patent mentioned in the said agreement in writing in this plea secondly above set forth, and the said renewal of said patent mentioned in the said agreement in writing thirdly above in this plea set forth, are one and the same extension and renewal; and the said defendants further in fact say, that before and at the time of the said extension of said Chaffee's patent in the said declaration mentioned, and at all times ever since such extension, they, the said defendants, by virtue of the license and permission of the said Charles Goodyear, had and now have, according to the true intent and meaning of the said agreement in writing, bearing date the fifth day of September, one thousand eight hundred and fifty, a right to use his, said Charles Goodyear's, metallic or vulcanized india rubber, or india rubber prepared and cured according to and under his, said Goodyear's, patent in the same last-mentioned agreement; and the said defendants further in fact say, that at the said several times when, &c., in the said declaration mentioned, they, these defendants, used the said machines in the said declaration mentioned, containing the said improvements and invention therein also mentioned, by and with the license and permission of the said Charles Goodyear, and by and with the license and permission of the said William Judson, as he, the said defendant, lawfully might for the cause aforesaid. And this the said defendants are ready to verify: wherefore they pray judgment if the said plaintiff his action aforesaid against them ought to have or maintain, &c.

Fourth Plea.

And for a further plea in this behalf, by like leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, the said defendants say, that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because, they say that after the extension and renewal of said patent in said declaration mentioned, and before the said alleged assignment to the said plaintiff, to wit, on the fifth day of September, in the year one thousand eight hun-

dred and fifty, to wit, at New York, in the southern district of New York, he, the said Edwin M. Chaffee, by his certain writing obligatory, sealed with the seal of him, the said Edwin M. Chaffee, and now shown to the court here, the date whereof is the day and year last aforesaid, for certain valuable considerations therein mentioned, moving from the said William Judson to the said Edwin M. Chaffee, did nominate, constitute, and appoint William Judson the trustee and attorney irrevocable of him, the said Edwin M. Chaffee, to hold the said patent in said declaration mentioned, under the said renewal thereof in the said declaration mentioned, so that no one should have a license to use the said patent or invention, or the improvements secured thereby, without the written consent of said Judson first had and obtained, except certain persons in the same writing obligatory referred to, of whom the said plaintiff was not and is not one; and except further, that he, the said Edwin M. Chaffee, should have the right to use the same patent and improvements in any business which he, the said Edwin M. Chaffee, himself might carry on, as by the said last-mentioned writing obligatory may more fully and certainly appear; which said writing obligatory afterwards, and before the alleged assignment to the said plaintiff, to wit, on the eleventh day of September, in the year one thousand eight hundred and fifty, was duly recorded in the Patent Office. And the said defendant further in fact says, that he used the said machines mentioned in the said plaintiff's declaration, and the improvements of said Chaffee therein also mentioned, at the times and in the manner, and to the extent in the said declaration stated and complained of, with such license and permission of said William Judson as he lawfully might for the cause aforesaid. And the said defendants further in fact say, that before the making of the alleged assignment to the said plaintiff in the said declaration mentioned, he, the said plaintiff, had notice of the said writing obligatory in the plea above mentioned, to wit, at the place aforesaid, and this the said defendants are ready to verify. Wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action against them, &c.

Fifth Plea.

And for a further plea in this behalf, the said defendants, by leave of the court here for this purpose first had and obtained, according to the form of the statute in such case made and provided, say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that before the alleged assignment of said letters patent by the said Edwin M. Chaffee to the said plaintiff, to wit, on the twenty-third day of May, in the year one thousand eight hundred and fifty, to wit, at New York, in the southern district of New York, the said Edwin M. Chaffee entered into a certain agreement in writing, with one Charles Goodyear, sealed with the seal of him, the said Edwin M. Chaffee, and now

shown to the said court here, the date whereof is the day and year aforesaid, a counterpart of which agreement, executed by said Goodyear, was, at the date last aforesaid, delivered to said Chaffee; which said last-mentioned agreement in writing is to the purport and effect following—that is to say:

This agreement, made by and between Edwin M. Chaffee and Charles Goodyear, witnesseth: That the said Chaffee, for, in, and in consideration of the sum of three thousand dollars, to be paid to him as hereinafter specified, hath sold, assigned, and set over, and by these presents doth hereby assign and transfer all his right, title, and interest in and to the improvement or invention of compounding and mixing gum-lac or shellac with india rubber, either with or without sulphur or other ingredients, and heat.

And the said Chaffee further agrees to apply, either with or in behalf of said Goodyear, for patents in the United States for said invention, at the expense of said Goodyear; said Chaffee further agrees that the said Goodyear may proceed to take out patents in all foreign counties, for his, said Goodyear's, benefit, said Goodyear paying the expenses of the same for said improvements in shellac, and said Chaffee agreeing to execute the necessary papers therefor.

The said Goodyear, on his part, agrees to pay to the said Chaffee the sum of three thousand dollars, upon the following terms, viz.: one-half of the aforesaid sum, or fifteen hundred dollars, at the time of the issuing of a patent for said improvements in the United States, or if a patent should be previously granted as a renewal of his, said Chaffee's, patent, for india rubber machinery, then the aforesaid sum of fifteen hundred dollars shall be paid to the said Chaffee upon the assignment of said patent for said machinery to said Goodyear, the remaining one-half of said three thousand dollars to be paid within one year from the date hereof.

In the event of neither of the aforesaid patents being obtained, then the first named sum of fifteen hundred dollars is also to be paid within one year from the date hereof. The said Chaffee upon his part agrees further, that upon the issuing of one or both of the aforesaid patents for shellac and machinery, he will immediately assign them to the said Goodyear.

And it is further mutually agreed, that if at that time the aforesaid three thousand dollars shall not have been paid, the said Goodyear shall make such a lien, transfer or conveyance of his right, title, and interest in said patent to said Chaffee, as shall prevent any valid transfer of any rights or interests in said patents by the said Goodyear, until the said three thousand dollars shall be paid by the said Goodyear.

It is further understood, that said Chaffee may reserve to himself the right to use the said india rubber machinery in any business which he may hereafter carry on; and it is further understood, that if the said patent for india rubber machinery is not extended, then the

whole sum of three thousand dollars shall be paid for, or secured upon the patent improvement for shellac.

In witness whereof, we have hereunto set our hands and seals, this 23d day of May, A. D. 1850.

EDWIN M. CHAFFEE, [L. S.]
CHARLES GOODYEAR, [L. S.]

Witness,
JAMES A. DORR.

As by the said agreement in writing may more certainly appear. And the said defendants further in fact say, that the said patent in the said declaration mentioned, and said Chaffee's patent for india rubber machinery, mentioned in the said agreement in writing set forth in this plea, are one and the same patent, and that the renewal and extension of the same patent, in the said declaration mentioned, is the same renewal of his, said Chaffee's, patent for india rubber machinery, mentioned, contemplated, and intended in and by the said agreement in writing set forth in this plea, by means whereof the said alleged assignment to the said plaintiff, in the said declaration mentioned, was and is wholly inoperative and void.

And this the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them, &c.

By their Attorneys.

And the said defendants also move the court for leave to file further pleas, and to give further notice under the general issue.

And on the eleventh of August following, a notice was put on file as follows:

United States Circuit Court, Rhode Island District.

HORACE H. DAY
v.
I. HARTSHORN, *et al.* } At Law.

June Term, 1854.

Defendant's notices under the plea of the general issue.

And under said plea of the general issue, in addition to the defences which may be by general law appropriate to said issue, the said defendants will avail themselves of the following defences, of which notice is hereby given:

First. That the said Edwin M. Chaffee was not the first and original inventor of the thing patented, or of a substantial or material part claimed as new, but that the same was invented long before said patent was issued.

Second. That the said Horace H. Day, at divers times and places before the commencement of his suit, has declared, and well knew

that other persons had declared, that said Chaffee was not the original and first inventor and discoverer of the thing patented, or of a substantial and material part thereof claimed as new; that what was useful and valuable in the thing patented was not new, and that what was new in the thing patented was not the invention of said Chaffee; and, that they will produce the record of the Patent Office upon the application for the extension of said patent, and other testimony for this purpose.

Third. That the thing so patented was before patented to one William Atkinson, in the United States, by letters patent dated August 15, 1835, and was described in a public work, to wit, the Journal of the Franklin Institute of the State of Pennsylvania, &c., volume 21, page 270, wherein said patent of said Atkinson is printed, anterior to the supposed discovery and invention of said Chaffee.

Fourth. That said improvement had been in public use at Boston, Roxbury, Lynn, Salem, Newton, Worcester, Lowell, Chelsea, and Charlestown, in the State of Masssachusetts; at Hartford and New Haven, in the State of Connecticut; at New York City, in the State of New York; at New Brunswick, in the State of New Jersey, and elsewhere, before the application of said Chaffee for said patent.

Fifth. That said prior invention, knowledge, and use of said improvement, and where the same had been used, was known to John L. Seaverns, Increase S. Hill, and Bernard Monagh, of Boston, to Richard Collins, of Chicopee, to Joseph G. Waters, and John Clifton, of Salem, all of the State of Massachusetts; to William Jackson, Samuel T. Armstrong, James Newbold, Elijah Bady, Horace H. Day, of New York City, and to James M'Cally, and Cheesman Ackerman, of Brooklyn, all of the State of New York; and to J. Jewell, Helen Sutphen, Calatend Stuphen, Jane Sutphen, Garitt G. Bookies, Elizabeth Jewell, and Catharine Wasel, of New Brunswick, in the State of New Jersey, and to various other persons who may be called as witnesses thereto.

Sixth. That the specification upon which said Chaffee's patent was obtained does not contain the whole truth relative to his alleged invention or discovery, and especially in this, that it does not specify that in the use of the thing patented it is necessary that the cylinders therein described should be cooled from time to time, or at any time, by the introduction of cold water therein, or by some other method.

Seventh. That said specification is also erroneous and insufficient, in this, that it specifies a certain degree of heat, to wit, 200 degrees Fahrenheit, as necessary to produce the described effect in the use of the cylinders, which is an excessive degree of heat.

Eighth. That said specification sets forth an unnecessarily complicated machinery, especially in this, in describing as necessary that the hollow cylinders or rollers should be of "unequal diameter, that five bars are placed on the top of the large cylinder side by side each other, leaving a space of about three-fourths of an inch between

them," &c., said bars being wholly unnecessary; that, "if the rubber is to be colored, the coloring matter should be sifted between the bars," whereas, the coloring matter can be equally well introduced without the use of the bars as with them, said bars being described as F F, and also that the blocks H H and the screws I I must form part of the machine, which are wholly unnecessary.

Ninth. That said specification does not describe any machinery or process by which a workman skilled in the art of manufacturing india-rubber could manufacture india rubber goods, and that the machinery and process described therein would spoil and destroy all rubber goods manufactured therewith and thereby.

Tenth. That the concealments and additions hereinbefore referred to, under the sixth, seventh, eighth, and ninth heads were made for the purpose of deceiving the public.

Eleventh. That the plaintiff has constantly disputed and denied the novelty and validity of said alleged invention and discovery of said Chaffee, up to the time of his pretended or attempted purchase of said patent, in July, 1853, and that he has constantly before that time used, and endeavored to induce others to use, the said patented invention or improvement, without authority from said Chaffee, or from others claiming under him.

I. HARTSHORN, et al.

By their attorneys,

SAMUEL AMES,
C. S. BRADLEY,
J. S. PITMAN.

And on the fifth day of September, the plaintiff puts in his replications to the pleas aforesaid.

And at an adjournment of said June term, A. D. 1854, held on the twelfth of said September, the case being called for trial, the defendants moved for a continuance, and the motion was argued to the court,—pending which, upon the suggestion of the court, the plaintiff moves that certain special pleas be stricken out. After a hearing upon said motion, the court ordered that said pleas be admitted; and afterwards, upon motion of the plaintiff, and leave given, the replications were withdrawn, under the twenty-first rule, for the purpose of putting in general demurrers to the special pleas, and demurrers were accordingly filed, as follows:

Circuit Court of the United States, Rhode Island District, *sc.*

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June Term, 1854.

And the said plaintiff, as to the said plea of the said defendants

by them secondly above pleaded, saith, that the same, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof against the said defendants, and that he, the said plaintiff, is not bound by law to answer the same. And this he, the said plaintiff, is ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his damages, by reason of the committing of the said grievances to be adjudged to him, &c.

By his attorney,

T. A. JENCKES.

Circuit Court of the United States, Rhode Island District, *sc.*

HORACE H. DAY
v.
HARTSHORN & Co. } At Law.

June Term, 1854.

And the said plaintiff, as to the said plea of the said defendants by them thirdly above pleaded, saith, that the same, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof against the said defendants, and that he, the said plaintiff, is not bound by law to answer the same. And this the said plaintiff is ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his damages by reason of the committing of the said grievances, to be adjudged to him, &c.

By his attorney,

T. A. JENCKES.

Circuit Court of the United States, Rhode Island District, *sc.*

HORACE H. DAY
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June Term, 1854.

And the said plaintiff comes and craves oyer of the writing obligatory set forth in the said plea of the said defendants by them fourthly above pleaded, and it is read to them in these words,—which, being read and heard, he saith that the said plea, and the matter therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof

against the said defendants, and that the said plaintiff is not bound by law to answer the same. And this he, the said plaintiff, is ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his damages, by reason of the committing of the said grievance, to be adjudged to him, &c.

By his attorney,

T. A. JENCKES.

Decision of the Hon. John Pitman, Judge of the Circuit Court of Rhode Island. On demurrer, in the suit at law.

HORACE H. DAY,
agst.
ISAAC HARTSHORN, et al.

June term, 1854.

This is an action to recover damages for an alleged infringement of a patent right. Edmund M. Chaffee, on the 31st of August, 1836, obtained a patent for a certain improvement in india rubber machinery, which he afterwards sold to Charles Goodyear. An extension of this patent was granted to Chaffee on the 30th of August, 1850, and the plaintiff claims under an assignment of the extended patent from Chaffee, dated July 1st, 1853.

The defendants have pleaded the general issue, with notice of special matter under the statute, and from special pleas, to which the plaintiff has filed a general demurrer.

The first special plea sets forth an agreement between said Chaffee and Goodyear, dated the 23d of May, 1850. This agreement contains an assignment of another invention of Chaffee (not yet patented), for compounding gum-lac or shellac, and also an agreement to convey to said Goodyear the extended patent for rubber machinery, upon the issuing of the extended patent to Chaffee; and on the part of the said Goodyear an agreement to pay fifteen hundred dollars to said Chaffee, upon the assignment of the said patent. The defendants then say that "they used, with the license and permission of said Goodyear, the machines mentioned in the plaintiff's declaration, at the times and to the manner and extent stated and complained of in the said declaration, as they lawfully might for the cause aforesaid."

The executory agreement set forth in this plea is relied upon as the authority which Goodyear had to license the defendants to use said improvement. It is not averred that said Goodyear ever required the execution of this agreement on the part of Chaffee, or that he ever tendered to Chaffee the fifteen hundred dollars, which he was bound to pay him, on the assignment of the same. A case, therefore, is not made which would warrant a court of equity in requiring the specific performance of this agreement, or a court of

law in giving damages for its non-performance. Before Goodyear could have had any authority to grant licenses to use this extended patent, it must have been assigned to him, and not merely agreed to be assigned. No authority being shown in Goodyear to license the defendants, the license set up by them in their justification in this plea must be considered as void.

The demurrer to this plea is sustained.

The second special plea sets forth the executory agreement between Chaffee and Goodyear, as set forth in the first, and also two other agreements between said Chaffee and one William Judson, one dated 5th September, 1850, and the other November 12th, 1851, and after several averments, closes as follows: "And the said defendants further in fact say, that at the said several times when, &c., in the said declaration mentioned, they, these defendants, used the said machines, in the said declaration mentioned, containing the said improvements and invention therein also mentioned, by and with the license and permission of the said Charles Goodyear, and by and with the license and permission of the said William Judson, as they, the said defendants, lawfully might for the cause aforesaid."

No further authority is shown in this plea for Goodyear to license the defendants, than in the first plea. The only question remaining under this plea is, whether Judson had any authority, as set forth in this second plea, to license the defendants. The authority of Judson is to be found, if anywhere, in the agreements between him and Chaffee of the 5th September, 1850, or 12th November, 1851.

From the recitals in the agreement of the 5th September, 1850, it appears that the agreement between Goodyear and Chaffee of the 23d May, 1850, had been modified, so that Goodyear had agreed with Chaffee, for himself and others using said patent under him, that they would be at the expense of applying for said extension of said patent, and make Chaffee an allowance for the use thereof of twelve hundred dollars per annum, instead of fifteen hundred dollars for an assignment thereof; that the expenses of procuring said extension had been large, by reason of the opposition thereto, and had not yet been ascertained, and could not then be; that said Judson had had the management of said application for said extension, and had paid and became liable to pay the expenses thereof, and agreed to guarantee to said Chaffee the annuity for the use thereof.

Chaffee then goes on to say in this agreement:—"Now I do hereby, in consideration of the premises, and to place my patent so that, in case of my death or other accident or event, it may enure to the benefit of the said Charles Goodyear and those who had a right to the use of said patent under and in connection with his licensees, according to the understanding of the parties interested, *nominate, constitute, and appoint* said William Judson my trustee and attorney irrevocable, to hold said patent and have control thereof, so that no one shall have a license to use said patent or invention or the im-

provements secured thereby, other than those who had a right to use the same when said patent was extended, without the written consent of said Judson first had and obtained."

Here is no authority given to Judson to license any one, but only to prevent licenses from being given to others without his written consent, except Goodyear and those connected with him as specified in said agreement.

The agreement of November, 1851, recites that it was agreed by the agreement of 5th September, 1850, "on what terms said Chaffee would continue to hold said patent for the benefit of said Judson and Charles Goodyear and his licensees."

"And whereas in said agreement there was an omission to state that if said licensees continued to use the improvements in said patent named, they should each one contribute and pay said Judson his proportion of the expenses and services expended in obtaining the renewal of said patent, which it was intended that said licensees should pay unto said Judson, in case they continued the use of said improvement, for which said patent was issued after the extension thereof."

"And whereas it is now agreed by said Chaffee and said Judson that said agreement shall be so modified as to secure the objects more fully intended to be secured by said agreement: Now it is agreed that said licensees shall each pay his share of the services and expenses to said Judson, as the *condition* on which they shall have the license of said Judson to use said improvements; and that on the payment of his or their share or proportion of the services and expenses, said Judson shall be authorized to give such a license to use said improvements, on their paying as aforesaid severally, each for himself, or his firm, or company."

It is not averred in this plea that the defendants paid their share of the expenses and services to said Judson, which was made the condition precedent on which they were to have the license of said Judson, and upon the payment of which said Judson was authorized to grant a license to the defendants. In answer to this objection to the plea, it is said that this part of the agreement of November, 1851, was made for the sole benefit of Judson, and to enable him to collect these expenses of Goodyear's licensees which he had paid or agreed to pay.

That a condition made for the sole benefit of any one he has a right to waive, that Judson, if he granted this license to the defendants without requiring this payment, virtually waived the same; that as Chaffee had no interest in the performance of this condition, the license of Judson is good, whether the defendants did or did not pay their proportion of these expenses.

If Chaffee was responsible for these expenses, then he had this interest in the performance of this condition by the defendants, that the payment by the defendants might enable Judson more surely and

speedily to pay them, and prevent Chaffee from being called on to pay them; or if Chaffee had been obliged to pay any of these expenses, then he was interested that Judson should require the fulfilment of this condition, as a means of enabling Judson to repay him. It is not averred that Chaffee was not responsible for these expenses, nor does it so appear from these agreements. The patent was extended for his benefit and was granted to him, and services rendered and expenses paid in the procurement of the same would *prima facie* be a fair charge against him, and if he was not responsible for them at all, there was no need of any agreement to save him from paying the same.

If at the time of the agreement of November, 1851, when the license was granted by Judson to the defendants, all these expenses and services had been paid by Judson, then Chaffee had no interest in the payment by the defendants of their proportion of the same to Judson. But this does not appear in the plea.

Upon the facts presented to me by this plea and confessed by the demurrers, I cannot say that Chaffee had no interest in the performance of this condition. I cannot, therefore, give an effect to the license of Judson as sufficient to justify the defendants without an averment of the condition precedent on their part, or without an averment of such facts as would enable me to say that Chaffee had no interest in its performance.

But I have serious doubts, if Chaffee had no pecuniary interest in the performance of this condition, whether at law the license of Judson would be good without it. Interest or no interest, Chaffee had a right to require it. He is the source of power in this respect, and had a right to say on what terms licenses should be granted. Judson was but acting under his authority as his attorney, with a power indeed coupled with an interest and connected with an agreement which, if executed on his part in good faith, may render the power irrevocable, but this of itself did not enable Judson to dispense with the conditions required by the power of attorney as prerequisite to the authority granted him to grant licenses.

However a court of equity might consider itself justified in viewing this instrument, when presented under certain aspects, yet sitting in a court of law, and deciding upon the legal effect of its provisions, as justifying the license set up by the defendants without any averment on their part of the performance of the condition precedent, the inclination of my mind is to consider such a plea as insufficient, without feeling myself at liberty to speculate upon the question whether Chaffee had or had not any interest in requiring a performance of the condition precedent.

I therefore sustain the demurrer to the 2d plea in bar.

The third special plea sets out the agreement between Chaffee and Judson of 5th September, 1850, and without any averment that the defendants belong to that class of persons known as Goodyear's

licensees, they justify the use complained of in the plaintiff's declaration under the license and permission of Judson.

No authority is given under the agreement of September 5, 1850, to Judson to license any person, and under neither agreement to license any person, except Goodyear's licensees.

I sustain the demurrer to this plea.

The 4th special plea sets up the agreement of the 23d May, 1850, between Chaffee and Goodyear, as in the first special plea, without averring any license to the defendants, and say that by means of the said agreement between Chaffee and Goodyear, the assignment to the plaintiff in the declaration mentioned was and is wholly inoperative and void. This plea amounts to neither more or less than the general issue, but cannot for this cause only be adjudged bad on a general demurrer. It presents the naked question whether the executory agreement is a good consideration without any averment of any steps being taken on the part of Goodyear to enforce the execution of the same, or any notice, expressed or implied, to the plaintiff of the existence thereof would of itself make void the assignment of Chaffee to the plaintiff for a valuable consideration.

The statement of the question presents its own answer.

I sustain the demurrer to this plea.

Upon all these special pleas judgment must be rendered for the plaintiff.

JOHN PITMAN,
District Judge, Rhode Island District.

United States of America, Rhode Island District, *sc. ss.*

CLERK'S OFFICE, CIRCUIT COURT,
AT PROVIDENCE, Nov. 4, 1854.

I, Henry Pitman, clerk of said court for said district, do hereby certify that the above and foregoing ten pages contain a true copy of the original opinion now on file in this office, duly examined and compared.

In testimony whereof, I have hereunto set my hand, and the [L. S.] seal of said court, on the day and year above written.

HENRY PITMAN,
Clerk.

Circuit Court of the United States, Rhode Island District, *ss.*

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And the said plaintiff, as to the said plea of the said defendants by them fifthly above pleaded, saith, that the same, and the matter

therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law to bar or preclude him, the said plaintiff, from having or maintaining his aforesaid action thereof against the said defendants, and that he, the said plaintiff, is not bound by law to answer the same. And this the said plaintiff is ready to verify. Wherefore, by reason of the insufficiency of the said plea in this behalf, the said plaintiff prays judgment and his damages, by reason of the committing of the said grievance to be adjudged to him, &c.

By his Attorney,

T. A. JENCKES.

And the demurrers argued by counsel at chambers, the presiding Judge delivered his opinion sustaining said demurrers, and ordered that on all special pleas judgment must be rendered for the plaintiff.

And at the November term, A.D. 1854, the plaintiff having filed his replication to the plea of general issue, the following additional notices were filed by the defendants under said plea.

And under said plea of general issue, in addition to the notices already filed in court and given, the said defendants give notice that, under the fifth head, they will also offer testimony to prove that said prior invention, knowledge, and use of said improvement, and where the same had been used, was known to Arnold Peters, John T. Walker, and George B. Holmes, all of the City of Providence, in said District, and to various other persons, who may be called as witnesses thereto; and, further, that the said invention, or the material parts thereof, were in public use prior to the application of said Chaffee for a patent, in Providence, in said District.

By their attorneys,

AMES, BRADLEY, & PITMAN.

December 2, 1854.

United States Circuit Court, Rhode Island District, *ss.*

HORACE H. DAY
v.
ISAAC HARTSHORN et al. } At Law.

And in addition to the former notices given by said defendants under their plea of the general issue, the said defendants will avail themselves of the following defences, of which the said plaintiff will take notice:

That said alleged invention of said Chaffee, or substantial and material parts thereof, claimed as new in said patent, were known to and used by many persons in the United States prior to the time of the alleged invention by said Chaffee, and was in public use before said time.

That the same had been described in public printed works anterior

to the supposed discovery or invention thereof by the patentees; and among others, in Newton's London Journal and the Repository of Patent Inventions, published in London; the Journal of the Franklin Institute; the Operative Mechanic, published in Philadelphia, and Ure's Dictionary of Arts, &c. And that the thing patented by said Chaffee is not useful, as described by him in his said patent.

And further, that the following are the names and places of residence of the persons whom the said defendants intend to prove to have possessed a knowledge of the thing, or substantial and material parts of the thing patented by said Chaffee, prior to his alleged invention thereof, and the places where it or they were so used before said alleged invention, and also of the persons by whom he intends to prove the same:

Names.	Residence.	Places where known or used.
Horace H. Day,	New York City,	New Brunswick, N. J.
Peter C. Onderdonk,	New Brunswick, N. J.,	do.
Hiram Hutchinson,	Paris, France,	do.
G. B. Millard,	Rahway, N. J.,	do.
Fred. Skinner,	Newark, N. J.,	do.
James McCally,	Booklyn, N. Y.,	do.
Cheesman Ackerman,	do.	do.
J. Jewell,	New Brunswick, N. J.,	do.
Ellen Sutphen,	do.	do.
Calatend Sutphen,	do.	do.
Jane Sutphen,	do.	do.
Garrit G. Bookies,	do.	do.
Elizabeth Jewell,	do.	do.
Catharine Wasel,	do.	do.
Patrick (a workman for Hutchinson & Onderdonk),	do.	do.
Charles Greigg,	Brooklyn, N. Y.,	Lowell, Mass.
James Newbold,	New York City,	do.
Daniel Hedgman,	do.	do.
Elijah Battey,	do.	do.
John Clifton,	Salem, Mass.,	Salem, Mass.
Joseph G. Waters,	do.	do.
William Atkinson,	Brooklyn, N. Y.,	Lowell, Newton, Boston, Salem, Roxbury, Chelsea, Mass.
Archibald Hoyt,	Troy, N. Y.,	Boston and Lowell, Mass.
S. T. Armstrong,	New York City,	Boston and Roxbury, Mass.
John G. Howes,	Daley, Conn.,	Westchester County, N. Y.

Names.	Residence.	Places where known or used.
Richard Collins,	Chicopee, Mass.,	Lowell, Boston, Newton, and Salem, Mass.
Rufus F. Newhall,	Lynn, Mass.,	Salem, Boston, and Lynn, Mass.
John L. Seaverns,	Boston,	Boston, Roxbury, Salem, Lynn, Newton, and Worcester, Mass; Hartford and New Haven, Conn.
Increase S. Hill,	do.	
Bernard Monagh,	Boston and Roxbury,	Boston, Charlestown, Somerville, and Roxbury, Mass.
William Jackson,	New York City,	New York City.
Cornelius S. Tompkins,	Providence,	Providence, R. I.
Edwin Field,	do.	do.
Arnold Peters,	do.	do.
John T. Walker,	do.	do.
George B. Holmes,	do.	do.
Charles Jackson,	do.	Providence, R. I.; Salem, and Lynn, Mass.
Abraham Fowler,	Manchester, Mass.,	Salem, Lynn, and Boston, Mass.
Charles McBurney,	Boston.	Boston, Salem, Lynn, and Roxbury, Mass.
James O'Donnell,	Boston and Roxbury,	Boston, Salem, and Roxbury.
Dennis C. Gateby,	do.	Boston, Salem, and Roxbury.
Ebenezer B. Scott,	Roxbury,	Boston, Salem, Lynn, and Roxbury.
Wm. S. Lovell,	Boston,	Boston, Salem, Lynn, and Roxbury.
John Haskins,	Roxbury,	Boston, Salem, Lynn, and Roxbury.
George W. Pratt,	New York City,	Boston, Salem, Lynn, and Roxbury.
Samuel Marsh,	do.	Staten Island, N. Y.
Daniel Chaffee,	Roxbury,	Roxbury and Boston,
Samuel C. Bishop,	New York City,	Boston, Lynn, Salem, Roxbury, Mass., and New York City.
Wm. S. Humphreys,	Newton, Conn.,	Roxbury and Boston.
Adolphus Stone,	Harlem, N. Y.,	do.
Nathaniel Stoddard,	N. Bridgewater, Mass.,	Roxbury and Lynn.

Joseph N. Dudley, Roxbury, Mass., Roxbury and Boston.
Submitted by
J. S. PITMAN,
Attorney for Defendants.
Per S. AMES,
C. S. BRADLEY & SELF,
Counsel for Defendants.

And the cause being called for trial on the twenty-eighth day of said November term, to wit, on the 23d of January, 1855, and the death of one of the defendants, Daniel Hayward, having been suggested, it was argued by counsel and committed to the following jury, on the sixty-fourth day of said term, to wit, March 7, 1855. (The death of one of the jurors occurring during the trial, it was agreed to proceed with eleven.)

George A. Kenyon, *Foreman.*

Wm. Blaisdell,	Andrew J. Bullock,
Chas. Aplin,	Calvin T. Waterman,
Hugh Crawford,	George Jenckes,
Jabez W. Mowry,	Alfred A. Hawkins,
Thomas J. Sweet,	John R. Emmes.

Who return a verdict, which is duly affirmed, in the words following, to wit; We find the defendants guilty in manner and form as alleged in the plaintiff's declaration, and assessed damages to the plaintiff in the sum of four thousand dollars.

(Signed) GEORGE A. KENYON,
Foreman.

Upon which, and before judgment, the defendants request and are allowed sixty days to file a bill of exceptions.

United States of America, Rhode Island District, *ss.*

Clerk's Office, Circuit Court
At Providence, June 4th 1855.

I, Henry Pitman, clerk of said court, for said district, do hereby certify, that the aforegoing twenty-five pages contains a true copy from the records in this office of the case at law, Horace H. Day *v.* Isaac Hartshorn *et al.*, also a true copy of the original opinion on demurrer in the above entitled cause, duly examined and compared.

In testimony whereof, I have hereunto set the seal of said court, and my hand, the day and year above written.

[L. S.]

HENRY PITMAN,
Clerk.

The foregoing record was read, subject to all objection by the defendant.

The counsel for the said defendants then read in evidence the stipulation of the 31st of October, 1855, between the solicitors for the respective parties as follows:

DAY
v.
UNION INDIA RUBBER COMPANY.

It is hereby stipulated that the defendant may read the copy of the instrument of the 5th of September, 1850, from *Chaffee* to *Judson*, the same as though the original was produced, the copy being from records of patent office, original not being in defendants' possession; the complainant not waiving the right to require the defendants to prove the execution of the original instrument by Chaffee or the claimed subscribing witness.

And it is further stipulated that the defendants may use the testimony of Geo. Woodman, the claimed subscribing witness thereto, as evidence, which was taken in the case of *Day* v. *Hartshorn* by the defendant, as found printed in the book printed by said Day, giving an account of said trial; said testimony is found on pages 173 to 197 inclusive, and on pages 485 and 486, and any other evidence given by said Woodman found in said book; and the complainant may read evidence in said cause from the testimony of said Chaffee, found in said book.

This stipulation shall not be construed to prevent the complainant from using any otherwise legal testimony which has been taken in the case, which the court may deem admissible, under the pleadings, aside from this stipulation, to defeat said paper of the 5th of September aforesaid, nor is this stipulation to prevent the defendants from giving notice to produce any paper in the hands of the complainant which they might now give were not this stipulation signed.

This stipulation is a substitute for any and all previous stipulations in relation to the paper of the 5th of September, 1850, from Chaffee to Judson, above named.

J. B. STAPLES,
Solicitor for defendants.
By S. P. STAPLES."
SAMUEL BLATCHFORD,
Solicitor for Day.

October 31st, 1855.

The counsel for the said defendants then read from the following record the parts inclosed in brackets, and the counsel for the complainants read the parts inclosed in the parentheses, and the residue of the same was not read, and which record was as follows:

DAY
v.
HARTSHORN. } At Law.

Testimony of George Woodman.

George Woodman, sworn and examined by Mr. Brady.

Q. Where do you reside?
A. In Boston.

Q. What is your occupation?

A. I have no particular occupation at the present time.

Q. Have you any occupation?

A. I have; at times I act for some of the insurance offices in cancelling losses, &c.

Q. What was your occupation in 1850, in August or September?

A. I was one of the public store-keepers in the custom-house at Boston.

Q. Did you know Mr. Chaffee at that time?

A. Yes, sir.

Q. How long had you known him?

A. All of twenty years.

Q. You knew him, then, about 1830?

A. About that time or 1832; it was not far from twenty years.

Q. You were intimate with him?

A. I was intimate with him from 1833 to the present time; there was an interval in which I did not see him often.

Q. Did you know Mr. Goodyear?

A. Very imperfectly; I never saw him but once or twice in my life.

Q. When did you first see him?

A. The first time I ever saw him to remember him, I think was at Mr. Chaffee's house, on the 5th of September, 1850, when the paper was executed.

Q. That was the first time.

A. To my best recollection, that is the first time I ever saw him to know him.

Q. Have you ever seen him since?

A. I think I saw him the next day. I do not think I have ever seen him since to know him.

Q. When did you become acquainted with Mr. Judson?

A. Not far from the middle of August, 1850.

Q. After the commencement of the suit of Horace H. Day against Hartshorn & Co., and the commencement of the suit of Mr. Day against L. Candee & Co., in New Haven, did you make affidavits in the case to be read on the part of the plaintiff on the motion for an injunction?

A. I do not exactly remember the case; I remember making one or two affidavits on behalf of the plaintiff.

Q. The plaintiff, Mr. Day?

A. Yes, sir; I think it was Mr. Day.

Q. At whose suggestion?

(Objected to as improper on a direct examination; objection sustained.)

Q. You were examined in the city of New York in the suit of Horace H. Day against the New England Car Spring Company?

A. I was, very thoroughly, I thought.

Q. Are you on friendly terms with Mr. Judson?

(Objected to as improper).

Witness. I had just as lief answer that question.

(Objection sustained.)

Q. Is that your writing? (pointing to his subscription to the counterpart of the paper of the 5th of September, 1850.)

A. It is.

Q. You are sure?

A. I am very sure it is.

Q. Whose writing is that? (pointing to the signature of Wm. Judson on the same paper.)

A. Wm. Judson's.

Q. Do you know that it is his writing?

A. I saw him do it.

Q. You saw him write it?

A. I did, if that is the paper, and I suppose it is.

Q. If that is the paper?

A. Yes, sir; I have seen this paper before, and it is the same, unless it has been altered.

Q. Look at it and see if it has been altered.

A. I do not know as I can tell.

Q. Look at it and see.

A. (Reads it.) I have no doubt of it.

Q. You don't see any alteration in it?

A. Not that I can remember; I do not think there is any alteration.

Q. Are you quite certain?

A. Well, I do not know that there is; there may have been alterations made, but nothing that I can detect.

Q. Well, this is the paper that has been produced from the possession of the plaintiff?

A. I do not know anything about that.

Q. You don't know whether it has been altered or not? you will not be positive about this paper?

A. No, sir.

Q. Look at the indorsement on it; whose is that?

A. That is mine.

Mr. Richardson (to witness). Read it to yourself.

Mr. Brady. I will read it. "Agreement between Wm. Judson *et al.* Wm. Chaffee, patent, I. R. Machine."

Q. What does "*et al.*" mean?

A. I can tell what I understand it to be.

Q. Well, sir?

A. "And others."

Q. It is an abbreviation of two Latin words.

A. I don't know anything about Latin; it is a common phrase, and I put it on.

Q. When was that paper signed?

A. On the 5th day of September, 1850, some time in the evening.

Q. There are certain alterations on the face of this paper. The pen appears to have been drawn over the words "semi-annually," and the word "quarterly" has been substituted?

A. That is so.

Q. Whose writing is that?

A. That is mine.

Q. Then the pen has been drawn over the words "six hundred," and the words "three hundred" have been substituted; whose is that?

A. That is mine.

Q. Then the word "December" has been put in before the word "March," whose is that?

A. That is mine.

Q. And the word "June" before "and?"

A. That does not look so much like my handwriting.

Q. What do you think about it?

A. I think it is mine.

Q. Have you any doubt about it?

A. No, I don't think I have.

Q. The words "for my own purposes," seem to have been written there, and the pen drawn through that; was that there before it was signed?

A. I think it was.

Q. Have you any recollection about it?

A. Not very distinct.

Mr. Brady here proposed to read the paper.

Mr. Richardson objected, as it was not the original paper signed by Mr. Chaffee.

The Court ruled that this paper might be read, though it would be somewhat informal, as both of the papers make one contract, and unless the other was put in, this would not amount to much.

Mr. Brady then read the paper of the 5th of September, signed by Mr. Judson.

Q. Is that your writing? (pointing to his subscription to the other paper.)

A. Yes, sir.

Q. That "witness, George Woodman," is in your handwriting?

A. It is.

Q. Whose writing is that—E. M. Chaffee?

A. It is the signature of Mr. Edwin M. Chaffee.

Q. Look at the word "quarterly," in that paper, and say whose writing that is.

A. I really do not know; it is not mine.

Q. That word quarterly is not yours?

A. I think not.

Q. Is that word "three" yours?
A. No, sir.
Q. Is that word "December" yours?
A. No, sir, I should think not; it does not look like it.
Q. That word "June"?
A. No, sir, I think that is not mine.
Q. The words "present or any further?"
A. No, sir.
Q. "My executors, administrators, or assigns?"
A. I do not think any of it is.
Q. You do not think either of the interlineations are in your writing?
A. I do not.
Q. In whose handwriting is this? "and it is expressly understood and agreed that I am to have the right to use said patent and improvement in any business which I may carry on: as witness my hand and seal this 5th of September, 1850?"
A. It looks very much like my handwriting. Some parts do not. I write more than one hand; sometimes I write back-handed and sometimes flowing or running hand. This is not my natural hand. It looks like my style. There are some words and letters which do not look like mine.
Q. Do you believe it to be your handwriting?
A. It looks like it.
Q. Have you any doubt that it is all your handwriting?
A. I have some doubt; but really it looks so much like it, I should think it was all mine.
Q. It was all written there before Chaffee signed the paper?
A. Yes, sir; no mistake about that.
Q. Do you remember those interlineations being made in this paper at the time, before it was executed?
A. I suppose they were made at the time when we compared the two papers. One read, and I believe I examined or read the paper. I believe I made the alterations to correspond with the other paper.
Q. Now, sir, did you see Mr. Chaffee sign his name opposite the seal on this paper?
A. I cannot say that I saw him sign it opposite the seal. I saw him sign his name there. My opinion—
Q. What were you going to add?
A. My opinion is, the seal was not there.
Q. That is your opinion?
A. That is my best knowledge and belief.
Q. Have you any recollection on the subject at all?
A. Yes, sir, I have some recollection—I have some reasons for my belief.
Q. I ask your recollections.
A. Well, sir, my recollections—

Q. Have you any recollections as to whether that seal was on the paper at the time you saw it signed?

A. My recollections are that it was not.

Q. Do you state to the jury that it was not?

A. I said that according to my best knowledge and belief it was not.

Q. That will not do.

A. I cannot go any further.

Q. Can you state that that seal was not on that paper when Mr. Chaffee put his name to it?

A. I cannot answer in any other way. It will be no use for me to say I do not know.

Q. (By the Court.) We want to know what you distinctly recollect?

A. I say to my best knowledge and belief.

Q. Not your knowledge and belief?

A. According to my recollection.

Q. (By the Court.) Do you recollect?

A. No, sir; I do not.

Q. You were examined on this subject in New York?

A. I was.

Q. Do you remember that you were asked there whether Mr. Chaffee signed and sealed that paper in your presence?

A. I remember it; the counsel did not ask it in that way.

Mr. Richardson objected to this mode of interrogation. The witness was the defendant's witness, and they should not put any question to him tending to contradict him.

Mr. Brady contended that he was not the defendant's witness, but the witness of the law. He would, however, reserve any further examination until he was examined by the other side, in relation to the execution of the paper.

Cross-examined, by Mr. Richardson.

Q. Were these two papers both executed or both signed at the same time by Mr. Judson and Mr. Chaffee?

A. Yes, sir; the same evening, within a few minutes of each other, I think.

Q. The one signed by Mr. Judson purports to be under seal; is there any seal upon it now?

A. There is not.

Q. The one signed by Mr. Chaffee has a seal upon it?

A. It has.

Q. They purport to be copies of each other. You say you compared them?

A. I compared them at that time, and I believe I read them in the court at New York.

Q. And you made interlineations to make them exactly correspond.

Now have you any recollection in relation to whether there was a seal on that paper signed by Mr. Chaffee, at the time it was executed and delivered?

A. I have no recollection.

Q. Have you any recollection upon the subject whether there was or not?

A. I answered that by saying that my best recollection was there was not.

Q. What enables you to recollect anything about it?

A. These papers were made under an agreement between Mr. Chaffee and Mr. Judson, wherein Mr. Chaffee was to receive instead of $1200.

Q. Now I will ask you if you gave your affidavit in one or two injunction cases, and whether—

Mr. Brady objected, as this cross-examination was now merely upon the execution of the papers.

Mr. Richardson. I mean to come directly to the point as to whether the witness does or does not know of the execution.

The Court. I think the question should be put to him without reading an affidavit to him.

Q. Have you any recollection upon the subject at all whether that seal was there or not? any present recollection?

A. My present recollection is that it was not.

Mr. Richardson. What I propose to prove is that this witness having been asked, on the stand in New York, whether he saw it executed, answered generally, that he did, but directly afterwards he remembered that there was no seal upon the paper, and caused himself to be recalled, and made the correction.

Mr. Brady objected, as the witness had already answered the question conclusively.

The Court admitted the proposed questioning, not to contradict but to fortify the witness's previous testimony.

Q. When did you first see that paper after its execution?

A. I do not recollect of seeing it until I saw it in court in June last, I think.

Q. You say from your recollection now there was no seal upon it; will you state what recollection you have about that seal, if you have any?

A. My recollection is that this was an imperfect paper; it was not considered to be a final thing, but was incomplete, inasmuch as some——

Q. Speak now your recollection about the seal?

A. If I am compelled to come right to the point, I should say there was no seal on the paper. I think I should be nearer the truth in that than in any other statement. I have certain reasons for it.

Q. Have you any recollection on that subject?

A. Yes, sir; I have certain reasons which I can——

Objected to by Mr. Brady.

The Court considered it improper for the witness to state his reasons.

Mr. Richardson said he not only proposed to get at what made the witness remember, but to go further and show that the seal was put on since.

The Court. I will allow him to state why he does recollect.

Witness. Because the papers were not completed; they were left in an incomplete state; they were imperfect papers.

Q. What first called your attention to show whether there was a seal on the paper or not?

A. When I was examined by Mr. O'Conor, the question was put to me whether that was exactly such a paper as I saw signed. I stated to him that there might have been additions. There was something in my mind that I could not at that moment recollect. He asked me if that was the same paper, and I answered "It is; there may have been additions to it." At that time I could not recollect, afterwards I did recollect, and my recollection was that the seal was not there. That was the whole trouble. I went into court, and so rectified my statement.

Q. Do you recollect now that there was any difference between the two papers at the time they were executed?

A. I do not.

Q. Was there anything said about their being exactly alike?

A. Yes, sir; they were to be exactly alike?

Direct resumed by Mr. Brady.

Q. If they were intended to be exactly alike, why were they not made so?

A. I do not know.

Q. You wrote the words there, "As witness my seal this 5th September, 1850?"

A. I did. I copied it from the other paper in order to make the papers alike.

Q. Have you any memory as to whether any seal was put on the paper of the 5th of Sept. or not?

A. I have no recollection that it was put on.

Q. And you say the reason you recollect it is that the papers were not complete?

A. Yes.

Q. Is that the only reason?

A. I went on just now to explain and was stopped.

Q. We permit you to go on.

A. The bargain between Judson and Chaffee was for $1500 instead of $1200. Mr. Judson filled them up with $1200; then Chaffee refused to sign the papers; but Mr. Judson promised to have

these papers immediately re-written, holding these for a memorandum of an agreement, the blanks to be filled with $1500, according to the agreement, and the other quarterly agreement to correspond. That led me to——

Mr. Brady. Your Honor will consider, that though this is received, we reserve objections to that as incompetent to be given at this time, being in reference to the construction of the papers.

Q. Have you now stated all the reasons to the jury why you think you recollect that the seal was not there on the 5th of September?

A. That was the principal one. The other one was, that as the papers were both to be written alike. That was another very important consideration.

Q. Is this, then, your explanation, that the reason why you recollect that the seal was not put on that paper is, in the first place, the papers were to be both alike (one of them seems not to have a seal on it); and in the second place, that Chaffee was to be paid $1500 a year instead of $1200?

A. Yes, sir; that was distinctly understood.

Q. Can you explain to us how that last fact—that Chaffee was to have $1500 instead of $1200—was to affect the other question whether there was to be a seal?

A. Because the papers were left incomplete.

Q. Was the paper incomplete when Chaffee had signed it, and you witnessed it?

A. I should think it was, since it was without a seal.

Q. Was it intended at that time to leave it incomplete?

A. Yes, sir; it was intended that the papers should be re-written. The agreement between Chaffee and Judson was not inserted in these papers, and Chaffee refused to sign them.

Q. Wait; we will come to that presently. I want to ask you now if Mr. O'Conor asked you this question, in these words, in regard to that paper? "Did you see it signed and sealed at that time by Mr. Chaffee?"

A. I believe he did—no, sir, not in that way. He was very cautious about putting it to me. He first asked if I saw it signed by Mr. Chaffee. I answered that I did. Then, after going off for some little time, he came to that question again, and asked me if I saw the seal put there. There was something in my mind that I did not fully recollect, and I think I answered that I thought it was there.

Q. Did Mr. O'Conor ask you this question either in words or in meaning? "Did you see that signed and sealed at that same time by Mr. Chaffee?"

A. He did not ask me in that way. He asked me in the first place if I saw it signed; and very cautiously, if I saw the seal on it.

Q. What did you answer?

A. I believe I answered that I thought it must be.

Q. Didn't you answer in this way? "I think I was specially

called for the purpose of witnessing it; yes, sir, I think I did, I think I was specially called upon by Mr. Judson to witness it there on the spot."

A. Yes, sir, I believe I answered so.

Q. And did you answer that there was, or that you thought there was, a seal on it at that time?

A. Yes, sir, I think I did.

Q. Do you remember that after you had so stated, an objection was made to giving any proof of fraud in obtaining that paper, on the ground that it was sealed?

A. I think I heard such a thing mentioned in court.

Q. Yes, sir, and you heard it argued?

A. Yes, sir, I think I did.

Q. Now, sir, wasn't it after that discussion—after the lawyers had argued more than a day the question whether fraud could be proved, to set aside a sealed instrument, that you first suggested any doubt in your mind as to there being a seal on that paper?

A. No, sir; it was but a very short time when it came to my mind about that seal. I had very strong doubts when I testified, and when I went out of court and walked up Broadway, it came to my mind like a flash, and I went back and asked if I could alter my testimony.

Q. When you had closed your testimony on the direct, and Mr. O'Conor examined you, hadn't you left the matter in such a stage that you had shown that there was a seal on the paper?

A. I believe I didn't state so distinctly; I said I thought there was one there.

Q. That was on Tuesday?

A. I do not know.

Q. That was the day you was examined. When were you called back—wasn't it on the Friday following?

A. I do not know.

Q. Wasn't it two or three days after?

A. I don't know whether it was two days or one. We kept adjourning over and over again; it was a forty-five days' job.

Q. When you did come back, was not this what you said? "After I left the court-house I had doubts whether the seal was there, and I have doubts now. I said I had doubts whether I could swear that the seal was there; I could not swear it was not there." Is that your testimony?

A. I think probably it was; you can tell; you have a record of it.

Q. You said then that you could not swear that it was there?

A. I said that according to the best of my knowledge and belief.

Q. Did you swear to that?

A. I think I did very emphatically.

Q. Do you remember that you said also in substance, "I have one or two reasons that lead me to believe it was so?"

A. Distinctly.

Q. And then, that the only reason you assigned was this: "I supposed at the time they were the same; I have no recollection that they were different; they were intended to be alike?"

A. I think those are the precise words.

Q. These two papers prove to be alike; one of them has your interlineations in it; were they both read over before they were signed?

A. I think so.

Q. They were compared?

A. I think so.

Q. That is, you held one and Judson the other?

A. Some gentleman did.

Q. One read and the other looked on to see that they agreed in all respects?

A. What brings that to my recollection is, that I interlined one of them. I have no doubt in my mind it was so.

Q. What became of the paper that Chaffee signed?

A. Mr. Judson took it.

Q. And the one that Judson signed?

A. I think Chaffee took it away.

Q. What became of it afterwards?

A. The next day Mr. Chaffee handed it to me, and requested me to keep it until he called for it.

Q. When did he call for it?

A. It was some few days after—not a great while. He wrote to me for it, and I sent it to him, I think, inclosed in a letter.

Q. After that it was in his possession?

A. Yes, sir.

Q. You wrote a letter, and Chaffee wrote a letter to you; have you got it?

A. I have not.

Q. What has become of it?—Is it destroyed?

A. I do not know.

Q. Do you know anything about it?

A. I do not; I have a large number at home, and it may be among them.

Q. Have you seen it?

A. I have not seen it.

Q. Do you know whether it is there or not?

A. I do not.

Q. Did you receive more than one letter from Chaffee about it?

A. I do not recollect that I did.

Mr. Richardson. I take it that they cannot put in this paper, as the subscribing witness has not sworn to it conclusively.

The Court. The witness said in the first place that he didn't distinctly recollect, and afterwards he said he did recollect. I leave

it to the jury to decide whether it is proved that the seal was on or not.

Re-cross-examined by Mr. Richardson.

Q. You say that you have no particular business; where were you residing on the 5th of September, 1850?

A. At Boston.

Q. How happened you to be in New Haven at the time you saw this paper subscribed?

A. I left Boston not far from the 20th of August, to go to Washington, at the request of Judson?

Q. Mr. Judson applied to you for that purpose?

A. He did.

Q. What did he tell you he wanted of you?

A. He wanted me to assist in the extension of what is termed the Chaffee patent.

Q. Did he tell you whom he was acting for?

A. He did.

Q. State the circumstances that took place?

A. I was sent for to give my deposition in this case, and in the course of that deposition—I do not know but that it may have been thorough—Mr. Judson said to me that I must go to Washington. I told him I was in the custom-house, and probably could not go very well.

Mr. Brady here raised the point that no proof was admissible in reference to fraud, because the instrument was under seal, and because the execution of the paper of the 12th of November, 1851, estops Mr. Chaffee and all others from alleging fraud.

Mr. Richardson referred the Court to the decision of Judge Betts on that point.

The Court. I have read that decision; I admit the evidence, of course.

Q. State the circumstances that took place when you were called upon by Mr. Judson to give your affidavit?

A. I was called by some one to go to the office on the corner of Court Square and Court Street, to give a deposition in favor of the extension of this Chaffee patent. I do not recollect distinctly whether it was in the course of that examination or after its close that Judson wished me to go to Washington.

Q. What did he say to you?

A. I told him I was so situated that I didn't see how I could go. I didn't know the parties any other than Mr. Chaffee; but as Chaffee was an old friend of mine, a mechanic, if it was necessary to go for his benefit I would try to go. Mr. Judson then said to me that he was acting for Mr. Chaffee as his counsel, and that it was for the benefit of Mr. Chaffee, and that if I would go he would pay me liberally for going. With that assurance I went to the custom-

house and got a permit from the collector, and in due time went to Washington, according to the agreement with Mr. Judson at the time. I was to meet Mr. Judson and Mr. Chaffee at New York, I think it was on the Friday following. I proceeded to New York, and there found that they had proceeded on to Washington. I then immediately followed on to Washington, arriving there on Sunday morning; I found Chaffee and Judson there.

Q. By Mr. Brady. What date was that?

A. It was the last Sunday but one, I think, in August.

Q. You say you stopped in New York; did you stop any time?

I stopped there no longer than from the morning till the proper conveyance, and went on.

Q. Did any one go on with you, connected with this matter?

A. I believe not.

Q. Were there any other parties at Washington except Judson and Chaffee, acting for the extension on what is called Chaffee's side, that you know of?

A. I believe not; I saw nobody but Judson and Chaffee at that time.

Q. You went on to help and in procuring it?

A. Yes, sir.

Q. There was nobody on your side but Judson and Chaffee that you know of?

A. They were all I saw that I know of.

Q. Were you present when any thing took place between Chaffee and Judson at Washington in relation to the extension?

A. We were consulting together at various times, from Sunday morning till the following Friday. We consulted on various things, and I was sent in divers ways to do certain things in aid of the object.

Q. The consultations were in reference to the success of the measure?

A. Altogether.

Q. Did Chaffee advise Judson about it?

A. Always—several times—a great many times in the course of the week—sometimes several times a day.

Q. How long did you remain there?

A. I remained there from Sunday morning till the next Saturday afternoon—I think, 5 o'clock.

Q. Who returned with you?

A. Mr. Chaffee started, I think, at 5 o'clock, either on the last Saturday or—

Q. When did Judson return?

A. I do not know.

Q. Did Judson return with you?

A. He did not.

Q. When did you next see Judson?

A. I think it was the Monday following, in New York, or on Tuesday—I cannot recollect exactly.

Q. Did you stop over at Philadelphia, you and Chaffee, on your way home?

A. Yes, sir; I think we stopped from about midnight, on Sunday morning, till Sunday evening, when we took the Sunday evening train for New York; we arrived in New York at 12 o'clock on Sunday night—the last Sunday in August.

Q. How long did you stay in New York—or did you stop there at all?

A. I stopped there some two or three days.

Q. Did you bring on the original patent with you when you came on to New York, or did Chaffee or Judson?

A. It was either Chaffee or I; I think it was Chaffee. I do not know but I might have brought it on myself.

Q. It came on between you?

A. Yes, sir.

Q. Did you see it after you arrived in New York?

A. I do not know that I did.

Q. Did you see it on the way from Washington to New York?

A. I think I did.

Q. Now, sir, when you got to New York, did Chaffee come to you and tell you anything that Judson had said to him?

A. Yes, sir, he did, on Tuesday morning, I think.

Q. Will you state what he said that Judson had said to him?

Objected to.

Mr. Richardson said he intended to prove that what Chaffee said to Woodman, Mr. Woodman repeated to Judson.

Objection overruled.

Q. Did Chaffee tell you any thing that Judson said to him?

A. He did.

Q. Did he request you to go to Judson about it?

A. I think I went at my own suggestion.

Q. Now state what you said to Judson, if anything, in consequence of what Chaffee said to you?

A. I stated to Mr. Judson that I had understood from Chaffee that he had undertaken to obtain the patent from him by very unfair means. I stated to him that I understood that he had invited him up to Mr. Staples' house, and there told him that he (Judson) had advanced large sums of money to obtain the extension of this patent, and that he must have security in some way from Chaffee by this patent, to secure him for that large outlay. I stated to Judson that he had said to Chaffee that he (Chaffee) was holden for that large amount of outlay; that it was a very large sum; that unless Mr. Chaffee made him secure in that patent, he would break him up in his business, and would ruin him if possible. I do not know that that is the exact language, but that he would break him up in his

business. I told him that he had frightened him out of his wits, and I believed Chaffee had cleared out and gone home. Mr. Judson then entered into conversation, and affirmed very nearly the whole.

Q. Mr. Brady. What did he say?

A. He said that he had laid out large sums of money for Chaffee, and Chaffee was holden for these sums of money; that he was a great fool not to give him the patent; that he was now in comfortable circumstances, and unless he did do it he could break him up in his business, and would break him up in his business; that Mr. Goodyear had advanced nothing towards the extension of this patent; that he was poor and could not, and if the patent went into the hands of Goodyear, he (Judson) never should get anything for the large outlay he had made; and that unless he had a lien from Chaffee he should lose this large outlay of money. That is as near as I can remember; that is the substance of the conversation.

Q. Did you ask Mr. Judson how much the expenses had been?

A. I did; I asked Judson how much he had laid out, and he said that the expenses had not been made up and he could not tell: but that it was a very large sum.

Q. State whether Judson said anything about an agreement that Chaffee had made with Goodyear?

A. I understood him to say that there had been an agreement with Goodyear, but that Goodyear should not have that patent because he had paid nothing towards the extension, was so poor that he could not, and unless he had a lien on that patent to secure him for the outlay he should probably lose it. Something to that effect; that is the substance. I cannot give every word just as it was stated at the time, it being several years ago.

Q. What did you say to Judson in reply, if anything?

A. I think I told Judson that it was a very great pity, after we had succeeded so well in extending that patent, that any difficulty should happen that we should not carry out the business. He agreed with me, and we went then to talking about how we could best settle the difficulty, and I think I made some proposals. I think I stated to Judson that I thought the sum they were to pay for it was small, and if they would give Chaffee more, and compensate him, perhaps he would be induced to pass the patent to him or settle with him. Mr. Judson rather agreed with me on the point, and it was decided that I should go to New Haven and see what could be done in the premises with Chaffee. I went to New Haven and met Chaffee, and talked the subject over with him. I told him that they would make a more liberal allowance than what was agreed in the paper by Goodyear. Chaffee seemed to think that his course was to carry the original bargain out with Goodyear, and he resisted for a long while. Judson came to New Haven and we met, and the result, after a long while was, this paper of the 5th of September. We came to that conclusion. It was a long story to tell—a great many words said—a very difficult thing to settle.

Q. Where did you first see Judson—in New Haven?

A. I do not recollect.

Q. Did you come up alone, or with Chaffee?

A. I do not remember; I remember going up with Chaffee to the hotel, to see if Judson was there, but whether we called there I do not recollect. We did meet in New Haven, and after a long conversation at his house and elsewhere, we hit upon this paper of the 5th of September. There was some considerable argument, and the papers were drawn up and fixed as far as they are.

Q. When Judson came to meet you and Chaffee together at New Haven, was there any conversation about the inducements to make this paper on the part of Judson—anything said about it?

A. There was a great deal said—a great deal of what I have repeated.

Q. Was this conversation repeated over to Chaffee?

Mr. Brady. No, no; what he said.

A. I have stated that; some of the former words were repeated.

Q. Tell what was said.

A. It is almost impossible to tell everything that was said.

Q. Tell what you recollect.

A. Mr. Judson asked the transfer of that paper (whatever it was) to him to give his security, and repeated some conversation about his being liable for it; that it was his duty to give him that security; and, in fact, he urged it with a great deal of energy. I know that Chaffee's great objection was—upon which he resisted to the last—that he was in duty bound to carry out the bargain between him and Goodyear.

Q. Was Goodyear present?

A. He was not. Mr. Judson stated at that time that it would be all right, if Chaffee gave him the papers, instead of Goodyear; and I think that in the evening, when Chaffee agreed to the proposition, Mr. Candee was there, and I think I put the question to Mr. Candee if it would be right——

Q. I am not asking you about that conversation with Mr. Candee.

Mr. Brady. Let him state it.

Mr. Richardson. You can state it.

A. I think I put the question to Mr. Candee, if it would be proper, and right, and honest to convey the paper to Judson, and he thought it would be right; that Chaffee would not commit any very dishonorable transaction; and I believe that had as much effect upon Chaffee as any one thing.

Q. Did Mr. Goodyear come while the transaction was going on, or after the papers were made?

A. I think he came after the papers were made or in progress,—when they were signed; he came late in the evening.

Q. What was done when Goodyear came in?

A. The papers were very unceremoniously hustled out of the way—taken out of sight, so that Goodyear should not see them.

Q. How long did Goodyear stay there?

A. I cannot say; perhaps an hour or so; it was rather late when he came.

Q. You have been asked if you took possession of this part that belonged to Chaffee; how happened you to take that paper the next day?

A. As I was about starting to go to Boston, Judson and Chaffee were at the cars to see me off. At the suggestion of Judson, Chaffee gave me this paper to carry to Boston, and gave me as a reason, that if anybody asked him if he had any papers, he could say he hadn't any in his possession. I think that was the statement; I am very sure it was.

Q. Repeat that again.

A. At the suggestion of Judson, Chaffee handed me the paper to be kept, giving as a reason that if anybody asked Chaffee for the paper, he could say he had no papers in his possession.

Q. Mr. Judson said that?

A. Yes, sir.

Q. Who examined you when you were witness at Boston, as counsel for Chaffee, in this extension proceeding?

A. I forget who put the interrogatories there; I remember Judson was there, and was very active. I was not acquainted with the Commissioner, or the gentlemen acting on the other side, but I believe it was Judson; I am not positive.

Adjourned.

Testimony of Woodman, Candee, and Judson.

PROVIDENCE, Thurs., Feb. 8, 1855.

Mr. Woodman continued—cross-examined by Mr. Richardson.

Q. At the time you had this conversation with Mr. Judson, which you have related, in New York, did Judson say anything in relation to his services in procuring this extension?

A. He said he had been at great expense in obtaining depositions, and for his own services and trouble; and that was the reason he gave for wishing to get the patent into his hands—for security.

Q. Did you ask him how much his bill amounted to?

A. I think I asked him how much the expenses were, and he said they were very large; that he had not made it up, and could not tell.

Direct resumed by Mr. Brady.

Q. What services did you render in this extension, for which Mr. Judson employed you?

A. Nothing in particular was pointed out.

Q. What part did you take in the extension?

A. I do not think my services were of great importance at all; I did some errands for them, and some things of no very great consequence.

Q. How much were you paid for your services?

A. $300.

Q. Who paid you?

A. Mr. Judson paid me; or rather, I think, I got $100 from a store in Broadway, which I understood was for Mr. Judson. He had agreed to pay $100, and the last payment of $200 he gave me, I believe, in the form of a note or draft of 30 or 60 days, which he paid.

Q. The $100 you got from Broadway you got by his order?

A. I had no order; I went there, and told them I was to have $100 to bear my expenses, and it was given me by some person.

Q. Do you know Mr. Buckmaster?

A. I do not; I have seen the gentleman.

Q. You saw him at the trial in New York?

A. Yes, sir; a gentleman they called Mr. Buckmaster.

Q. Was that the person who gave you that $100 at the store in Broadway?

A. Some person who was employed there; I do not know who he was.

Q. You do not know whether he was or was not?

A. I did not know him to be Mr. Buckmaster; I have never been able to recognize him since; in New York was the only time he was pointed out to me.

Q. Did he give you money or a check?

A. I have forgotten.

Q. Did you give a receipt for it?

A. I do not know that I did; probably I did; I do not remember.

Q. How long were you engaged in the extension proceeding, for which you were paid this $300?

A. Less than a fortnight.

Q. Did you render any other service or assistance except going upon some errands?

A. Nothing of any great importance; I might have been with him when he consulted and had some plans; it was of no great importance; I think myself I was well paid.

Q. Do you remember that when you received that $100 in Broadway you had a conversation with the person who paid it to you?

A. Yes, sir; I remember of talking with some person there.

Q. What was the date of that payment?

A. I cannot tell; I should think it was between the 20th and 30th of August, 1850.

Q. Was it while you were on your way to Washington?

A. It was.

Q. Did you tell the persons in that store that you were going to Washington?

A. I think probably; I have no recollection that I did.

Q. Do you remember telling that person that you were going to

Washington for the Goodyear party to defeat Mr. Day, or anything of that kind?

Objected to as immaterial; question allowed.

A. I do not remember of saying so; but one thing is certain. I did not say I was going for Goodyear and his licensees, for I never knew there was such a party in the world as Goodyear's licensees until I got back with the patent; I had never heard of them.

Q. We will leave out the word licensees; did you ever say for the Goodyear party, or anything like it?

A. No, sir; nor anything like it, that I remember; for I did not know the Goodyear party.

Q. Did you use the name of Goodyear?

A. I do not think I did; I may have spoken of his name, but not in connection with that case. I was led to believe it was for the benefit of Chaffee.

Q. I am asking about what you said, not what you believe?

A. It is impossible to tell.

Q. You undertake to say you did not use Goodyear's name at that time?

A. I did not say so; I said I might have used his name. I had heard of Goodyear.

Q. You will not state anything positive about it. Have you a distinct recollection as to what time you started for Washington?

A. I think it was Thursday night. And here I wish to correct what I stated yesterday. I stated yesterday that I started from Boston, on Thursday night, and arrived at Washington on the Sunday prior to the last Sunday in Augnst. On looking at the calendar I find I was mistaken. The month closed on Saturday, so that it was on the last Sunday in the month that I arrived at Washington.

Q. That was Sunday, the 25th day of August?

A. I suppose so.

Q. The 31st came on Saturday, and the Sunday before that you arrived in Washington, in the morning?

A. Yes, sir.

Q. Having left there in the train on Saturday afternoon?

A. I do not know whether it was morning or afternoon. I staid in Baltimore over one night, certainly.

Q. And then you quitted Washington on Saturday, the 31st of August, to come on to New York?

A. Yes, sir.

Q. You stopped in Philadelphia on the way, and came through to New York in the train of Sunday?

A. Yes, sir; and arrived in New York some time near midnight.

Q. Did you know Mr. Staples at that time?

A. No, sir.

Q. Had you ever seen him?

A. Not that I know of.

Q. When you returned to New York, you and Chaffee put up at the Florence Hotel?

A. Yes, sir.

Q. And when did Mr. Chaffee leave the city and go to N. Haven?

A. I think it was Tuesday morning or forenoon; I cannot tell; I saw him in the course of the forenoon—what time he left I do not know.

Q. But he left without giving you any notice?

A. Yes, sir; he stated, the last time that I went to see Judson, that he should go, and he did go.

Q. Now, sir, when you had that conversation with Judson, which you have already stated, in which you told him, what Chaffee had told you, did you conclude that you would go on and see Chaffee at New Haven?

A. Yes, sir; after we had some conversation I concluded to go on.

Q. For what purpose?

A. I understood it to be to see if we could reconcile the matter, and—

Q. And what?

A. Bring about what Judson desired.

Q. Was that agreed upon between Judson and yourself?

A. Yes, sir; I am very sure that Judson understood it perfectly.

Q. You said it was to settle the difficulty?

A. Yes, sir; there was a very serious difficulty, and I was in hopes it might be settled; it was for that as much as anything.

Q. The difficulty was, Chaffee was desirous to carry out his bargain with Goodyear?

A. I understood it so.

Q. Was that the only difficulty?

A. The difficulty was, Chaffee was very much grieved at the conduct of Judson at Mr. Staples' house.

Q. What was the objection stated by Chaffee to executing a transfer or conveyance, or instrument to Judson? Was it not exclusively that he wanted to carry out his bargain with Goodyear?

A. I so understood it.

Q. Then, when you went to New Haven, was it to persuade Chaffee not to carry out his bargain with Goodyear?

A. Not particularly that; I went to get it fixed with Chaffee, and assist in any way to reconcile these two parties.

Q. Wasn't it your purpose to get Chaffee to agree to execute a paper to Judson?

A. I do not think it was altogether that; I went, certainly, with the desire of Judson for that purpose, after hearing what Judson had to say, and see how the facts stood after talking with Chaffee. I did not go specially with that business, because I thought Chaffee would not do it.

Q. Would not do what?

A. Would not make that bargain and give it to Judson.

Q. Did you know what the bargain between Chaffee and Goodyear was?

A. I did not know until about the time of this difficulty.

Q. Did you know what it was before you went to New Haven to see Chaffee?

A. I think I did.

Q. What did you understand it to be?

A. I understood Chaffee had agreed for some—

Objected to; objection overruled.

Q. What did you understand to be the bargain between Chaffee and Goodyear at the time you went to see Chaffee in New Haven?

A. I had learned that in some manner he had agreed with Goodyear to convey that extended patent to him.

Q. For how much?

A. I do not remember, whether he told me how much or not; I learned subsequently that it was for $3000 and some other things.

Q. Mr. Chaffee did not want to give it to anybody but Goodyear?

A. That appears to have been the case; his whole mind was upon it, and that was the objection he had,—he had made an agreement, and wanted to carry it out.

Q. Now when you went to see Chaffee at New Haven, you saw him at his house?

A. Yes, sir.

Q. What day was that?

A. I think it was the Wednesday following, or Thursday.

Q. Thursday was the 5th of September?

A. We were there Thursday, and I believe I went up there Tuesday night or Wednesday morning.

Q. You have said that Chaffee was an old friend of yours; did you stay at his house?

A. Yes, sir.

Q. Sleep there?

A. I slept there all the time I was there.

Q. How long were you there altogether?

A. A day or two.

Q. On the day before—the 6th of September—did you and Chaffee talk this matter all over and consult about it?

A. I think we talked considerably about it; probably we did.

Q. Was it agreed between you and Chaffee on that day—the 4th of September—that Chaffee should execute a paper to Judson?

A. Not till after Judson came there; all I said to him did not affect the object at all.

Q. What object?

A. The very object you ask—to make that paper with Mr. Judson.

Q. You wanted him to do it?

A. I was not particular about it myself; I thought what Judson told me would be proper and right, and I told him that Judson would pay him more money.

Q. Didn't you recommend to Chaffee to do it?

A. I think I did.

Q. But he would not?

A. He refused to.

Q. On what ground?

A. Because it was intended that the patent should go to Goodyear, and he was under obligations to make Goodyear the first offer, as he had before bargained, to carry out his original design.

Q. Did Mr. Judson arrange that he would be at New Haven at any particular time?

A. I do not remember.

Q. Did you send for him?

A. I know we did not send for him; I do not remember whether he agreed to come or not; I know he did come up; whether there was any agreement about it I do not know.

Q. What time did he get there?

A. I do not know.

Q. What time on the 5th of September did you first see him at New Haven?

A. I do not know.

Q. Did you spend the 5th of September at Chaffee's house?

A. About all the time.

Q. You dined there?

A. I do not know even that.

Q. Then the evening came; did take you tea?

A. I think I did.

Q. Mrs. Chaffee was at home?

A. She was.

Q. Now did Judson arrive there before or after tea time?

A. I do not remember.

Q. Did you first see Judson on that day when the paper was signed in Chaffee's house, or at some other place?

A. I do not remember.

Q. You have no recollection?

A. No, sir; he was there, but at what time of day he came there I do not know. I saw him there, but the principal business we did was that evening,

Q. What time in the evening did that business begin?

A. Directly after tea; I should think about 7 o'clock.

Q. In his parlor?

A. In his house.

Q. Do you recollect whether when the business began of executing that paper you and Chaffee were alone, and Judson came in; or whether you went into the room and found Judson there?

A. I do not remember.

Q. Was Mr. Candee there at the time you first saw Judson?

A. That I cannot say; I know they were there.

Q. You said he was there during the interview, and you were introduced to him?

A. Yes, sir.

Q. Have you any recollection as to whether Mr. Candee came there with Judson, or came at the latter part of the transaction?

A. I have not; I have nothing but an impression; I know we were all there in the course of the evening, and what we did.

Q. Did Judson produce a paper on that occasion?

A. I think he did.

Q. Which paper was it of these? (handing him two papers.)

A. I don't think it was either of these; there was a draft, but it did not look like either of these.

Q. Tell us how the conversation began?

A. I cannot tell.

Q. You don't remember how the business was opened?

A. I say I cannot tell; I do not remember.

Q. Nor who opened it?

A. No, sir.

Q. Tell us what was the very first thing you remember to have been said by anybody at that time on the business of that paper or any paper?

A. I cannot tell you.

Q. Did Judson ask Chaffee to give him a paper.

A. I do not know that he did; I know that Judson's aim was to get——

Q. Never mind the aim; did he show Chaffee a paper?

A. Yes, sir.

Q. Did he read it to him?

A. I think he did.

Q. Did Chaffee read it himself?

A. I think he did.

Q. Did you read it?

A. I do not remember that I did, still I have a faint recollection that I did.

Q. When it was read, did Judson say anything about that paper to Chaffee or you that you remember?

A. Yes, sir; that paper, if I recollect right, was a draft of those papers of the fifth of September, and after a long conversation, and after Chaffee had consented to pass these papers to Judson; then, if I mistake not, Judson drew up these papers, I think in the house.

Q. But I want the conversation that occurred before the paper was drawn up. What did Chaffee say to the draft?

A. There was a great deal of conversation for a great while.

Q. About what?

A. Everything that pertained to it—whether he had a right to give that paper to Judson. With what little eloquence Judson had, he persuaded him that it would be right; and I must confess, that what he said convinced me, and I told Chaffee that I thought it was proper and right.

Q. I want to know in that conversation before the paper was drawn what was Chaffee wanting?

A. He wanted to have the paper go in its proper course to Goodyear.

Q. To Goodyear?

A. Yes, sir, that is what he wanted.

Q. To Goodyear and not to Judson?

A. He certainly did: that was his whole aim.

Q. What was Judson trying to convince Chaffee of?

A. That it would be right, proper, and just, that he should get it into his hands as security for that money.

Q. As you do not remember precisely the conversation, was not this eloquence, or whatever it was, that Judson employed, intended to convince Chaffee that if he executed that paper it would be all the same in reference to Goodyear's rights, as if he made a transfer directly to Goodyear?

A. If I understood it right, it was to convince Chaffee that it would be very proper and right for him to transfer the paper to him, and more advantageous, because he had through me offered Chaffee a large sum of money.

Q. What was that?

A. The agreement I think was that he should have instead of $3000, $1500 down, and $1500 a year for seven years during, to be paid quarterly. I think that was the final agreement.

Q. He wanted to convince Chaffee that it was a decided advantage over that bargain?

A. Certainly.

Q. You all agreed to that?

A. I thought so; it was my opinion.

Q. And that was agreed on all hands?

A. Yes, sir.

Q. Then, as Chaffee was to get more than under the old contract, what remained to convince him about was this, that Goodyear would have the benefit of the patent just exactly as if the transfer was made to him?

A. No, sir; Chaffee's whole objection was, as I have stated, that he should be doing a wrong to Goodyear; but as I said before—and I hope I shall be understood once for all—Judson did persuade us both that it was proper and right; and I think I stated yesterday that we inquired of Mr. Candee, and he said it would be——

Q. You stated that, and as Mr. Candee is present, I want to see how your recollections correspond. Did not Judson say to you dis-

tinctly, and to Chaffee distinctly, something to this effect, that if that paper was executed it would be all the same to Goodyear, and that he would have his rights in the same way, and be protected at the same time?

A. I do not remember a word of that.

Q. When you were examined in New York, did you testify to what I shall read to you? "Chaffee resisted to a late hour, and said he was doing a great wrong to Goodyear. Judson said it would be perfectly right—that it was doing no wrong to Goodyear."

A. I do not remember that I said it; I might have said it.

Q. Do you remember now that that did occur?

A. No; I do not distinctly—that Judson said it was doing no wrong to Goodyear. I may have used that expression and I may not; I do not remember all I testified to in New York.

Q. Do you say that was not said by Judson in that conversation?

A. I want to understand, and to have the jury understand the question.

Q. The question is this: Did Judson say in that conversation to Chaffee, or in his hearing, that the execution of that paper was doing no wrong to Goodyear, or anything of the kind?

A. I think he convinced us, as I believe I stated before, that it would do no wrong to Goodyear.

Q. (By the Court.) The question is how he convinced you of that?

A. I understood Judson to say that he did some business for Goodyear, and that he was very well acquainted with Goodyear; if I mistake not there was something to that purport, but not the language.

Q. What purport?

A. That it would be doing no great wrong to Goodyear; and I understood him to say it would be the same as to pass it to Goodyear, if I understood it so at all. The question is a very complicated one.

Q. If I understood the matter, the difficulty was that Goodyear was going to be cheated in the transaction, was it not?

A. I didn't say anything about cheating. Chaffee thought he did wrong in not carrying out his obligation.

Q. That if Judson got it Goodyear would be cheated?

A. There was nothing said about cheating; he thought that as he had engaged to give it to Goodyear he ought to carry it out.

Q. But did either of you complain that he was going to be cheated by getting more.

A. No, sir; I do not think Chaffee had any such thought.

Q. Nor you?

A. No, sir.

Q. Chaffee was not going to be hurt but improved?

A. I thought so, and Chaffee thought so, I suppose.

Q. The only question then was whether Goodyear would be hurt by it?

A. I do not know whether Goodyear———

Q. After Chaffee was satisfied that he was getting more—that it was a more advantageous bargain than he had got before, was there any other difficulty than this: that if he gave this paper to Judson, Goodyear would be deprived of some rights?—was not that all that remained?

A. I know Chaffee expressed that probably he should be doing a wrong to Goodyear to pass it to Judson. It may be stronger; that was about the conversation.

Q. Well, he resisted till a late hour, because he wanted Goodyear to have the title. Now, which of these papers did Judson draw up first?

A. I do not know.

Q. I perceive that on this counterpart is your indorsement, and that this was delivered to you to keep; it seems to be written on a sheet of letter paper; does that bring to your recollection which of these papers was drawn first?

A. It does not; I am not free in my mind to say that they were both drawn there; my impression was that they were, but it might not have been so. After the bargain was consummated, I took but little interest until the papers were ready for the signature.

Q. You think there was a draft, and that, with these two, would make three papers; you recollect that there were three papers?

A. Yes, sir.

Q. But which of them was drawn first you do not remember?

A. Certainly not.

Q. I will call your attention to another circumstance. Mr. Judson had written the paper down to a certain point, and then you added, "And it is further expressly understood, and agreed, &c." Was not that your suggestion?

A. I do not think it was.

Q. How did it happen that Judson had not written it on the paper and you did?

A. I cannot tell.

Q. That is your writing?

A. I know I wrote it there.

Q. You had some distinct idea about it?

A. I presume I wrote it at somebody's request, and I rather think if the request was made by anybody it would be from Chaffee. I do not know that was either.

Q. Here is a substantial advantage reserved to Chaffee in this paper—the right to use the patent in his own business—and it is written by you; did you write that as your own language, or from the dictation of Judson, or how otherwise?

A. I cannot tell at whose instance I wrote it; it must have been from the dictation of some one—whether Judson or Chaffee I am unable to say.

Q. Now I want to refresh your recollection on the other point about Goodyear, and the persons interested with him. I want to call your attention to this part of the agreement. You have stated already to the jury that it was compared, one reading and the other looking on and seeing that it was right. "And whereas said Charles Goodyear agreed with me, for himself and others, using my said patent under him, that they would be at the expense of applying for said extension of said patent, &c." You have said that you never heard of Goodyear and his licensees until a certain time; were not Goodyear and his licensees mentioned in that conversation before these words were written in that paper?

A. I do not remember the word licensees being used; it might have been, but it is so vague in my mind that I do not recollect.

Q. Was any explanation given by anybody at that time as to what was meant by the words "others using my said patent under him (Goodyear)?"

Objected to as giving construction to the paper; objection overruled.

A. I do not remember.

Q. Do you say that the result of that conversation and interview on your mind, as to what the parties had said, was, that Chaffee was to remain liable to Judson for the payment of those expenses of the extension?

Objected to; objection sustained.

Q. After one of these papers was written then Judson made a copy of it, did he not, in that place?

A. I believe he did.

Q. When Judson was engaged in copying the paper which had been agreed upon, what were the rest of you doing?—Candee, Chaffee, and yourself?

A. I do not remember.

Q. Were you talking about this matter?

A. It is likely we were, but I cannot remember any particular conversation.

Q. Did Mr. Candee say in what capacity he was attending there?

A. No, sir.

Q. Did he say he was one of the shoe associates?

A. Not that I heard of; I do not know that it was said.

Q. Did he take any part in the conversation?

A. Perhaps he did.

Q. Don't you remember one word that he said, or the substance of any words that came out of his mouth?

A. No, sir; no more than any other conversation 5 years ago in a party.

Q. The papers having been both prepared, they were signed. Did you then immediately leave the house? you and the other parties?

A. I staid there all night.

Q. Mr. Judson went off?
A. I think he did.
Q. Did Mr. Candee go with him?
A. I think they went out together—I am not sure.
Q. You all separated in a very friendly way?
A. O, certainly; I felt very friendly indeed.
Q. You thought your friend Chaffee had made a very good bargain?
A. I thought so.
Q. And refreshments were brought in?
A. That thing I cannot remember.
Q. You took the copy which Chaffee was to have, and kept it in your possession.
A. Yes, sir.
Q. Then it seems that Mr. Goodyear made his appearance, and that Judson wanted to hustle the papers out of the room?
A. He wanted the papers out of the way.
Q. What time in the night was that?
A. I should think about ten o'clock—not far from that.
Q. Mr. Goodyear lived in New Haven?
A. I do not know anything about that.
Q. Did he come up into the room and get into Chaffee's house at all?
A. I saw him inside of the house.
Q. He came into the house?
A. Certainly.
Q. In this hustle of the papers out of the room, there was an inkstand there I suppose?
A. I think likely.
Q. Do you remember?
A. Yes, sir; I do remember it.
Q. Then the inkstand was taken out of the room?
A. All the writing materials.
Q. So as to show no trace of the writing?
A. Yes, sir.
Q. Who carried them out?
A. I know they were put out somewhere.
Q. Who took them?
A. I think Judson was about as active as anybody.
Q. Didn't you help?
A. I don't know whether I did or not.
Q. Didn't you unite in taking these materials out of the room, so that Goodyear should not see them?
A. I have no recollection.
Q. Have you any recollection about it?
A. I have stated that I had a recollection.
Q. What was the purpose of taking away the papers?

A. To keep them out of sight of Goodyear.

Q. Not to let him knowthat he had been cheated?

A. I do not know what it was for.

Q. Did Goodyear come into the room while Judson was in it?

A. I cannot tell.

Q. I want your recollection?

A. I do not know.

Q. Did Judson go out of that room at all, at any time that night, till he took his departure?

A. I can't tell.

Q. Then you cannot remember that he took anything out of the room?

A. I know the papers were hustled out of the room; I cannot tell who did it; it was under the direction of Judson.

Q. No one objecting?

A. Of course not.

Q. When Goodyear came in, did anybody speak to him?

A. It is a very natural consequence that we did.

Q. Did anybody say anything to him?

A. I was introduced by some one, I do not know who.

Q. There was Chaffee, Candee, Judson, and yourself, and you had been executing a paper; did any one of you say one word to Goodyear to let him know that such a paper had been made?

A. Not one word.

Q. So that all of you agreed to conceal that?

A. No, sir.

Q. Well, you all avoided saying anything about it?

A. At the request of Judson not a word was said.

Q. Now, sir, on the following day, when you had this counterpart of Chaffee in your possession, did you leave that day?

A. I think it was the next day.

Q. Before you left, did you see Mr. Parmelee, who has been examined in this case?

A. I do not know Mr. Parmelee; I saw somebody.

Q. This is Mr. Parmelee (pointing to him in court).

A. I know him; I did not know him then.

Q. Did you see him in New Haven the following day?

A. I do not remember that I did.

Q. Did you go to Goodyear's house or place of business the next day?

A. Yes, sir.

Q. Do you remember whom you saw there?

A. I remember seeing his wife, daughter, and himself.

Q. Did you express to any or either of them your great satisfaction that that paper had been executed, or anything of that kind?

A. I do not remember that I did.

Q. Did you go to Candee's factory?

A. I think I did.

Q. Did you see Mr. Parmelee, or any person there?

A. I saw a gentleman there that I supposed to be the foreman.

Q. Did you talk to him about the execution of that paper the night before?

A. I do not remember.

Q. Did you express to him your great satisfaction?

A. I do not remember that I did, but I must confess that I did feel satisfaction; I felt very well about it.

Q. You stated that Chaffee told you, as part of Judson's conversation with him, that Judson told him that if he did not execute that paper, he would break him up in his business—that he could do it, and would do it; what business was Chaffee in at that time?

A. I did not know myself; I had not seen Chaffee for several years. I understood Judson to say that he had now got into a comfortable business, and was getting up into the world after some drawbacks—that he was just getting on comfortably—that he was holden for the whole expenses to him—that he had made a great outlay on that extension, and would have security on it; that he would have it if he could get it; that he would break him up in his business; that he could do it, and would do it.

Q. What business had Chaffee, that he was going to be broken up in?

A. I do not know.

Q. Don't you know that he had no business then, being in the employment of Goodyear?

A. No, sir.

Q. What did you understand the business was besides that?

A. I did not understand anything about it; I had not seen the gentleman, till I went to Washington, for ten years.

Q. Didn't you understand, from somebody, at that time, that Chaffee was in business at Providence?

A. No, sir, I do not remember that I did; he was living in New Haven.

Q. Didn't you testify at the trial in New York, that you understood, at the time of that threat to break him up in his business, that he was in business at Providence, or somewhere else?

A. It strikes my mind that I heard that he was there in business, or going into business, but I have no very definite idea about it.

Q. Did you see Chaffee any more at all during that year, 1850?

A. I do not recollect how long it was after that that I did see him; I think it was here at Providence. I rather think I did not see him that year.

Q. Did you see him during the years 1851 and '52?

A. I think I did.

Q. Did you have any correspondence with him?

A. None that I remember.

Q. Were you ever at his place of business between September 5, 1850, and July 1, 1853?

A. I cannot fix the time that I came down to Providence; I should think that between that time there was something about some insurance, and I think my wife and myself went to Chaffee's house, and I think I went to some factory where Chaffee was engaged.

Q. Did you know Horace H. Day between September, 1850, and July 1, 1853?

A. The first time I ever knew of Horace H. Day to speak to him, was in August, I think, 1853, at Newport.

Q. You became intimate with him then?

A. I am certainly very intimate with him.

Q. When you were in New York, you were twenty-eight days attending that trial before you were examined?

A. I do not know—long enough; you know better than I do.

Q. During all that time you staid at Mr. Day's house?

A. Yes, sir; longer, too.

Q. Were you subpœnaed to attend that trial?

A. No, sir; nor this.

Q. You said, in your direct examination, that you told Judson, it was a very great pity, after he had succeeded in extending that patent, that any difficulty should happen by which he should not carry out the design; that he agreed with you about that; that you made some proposals; that you stated, you thought, to Judson, that the sum he was to give him was small, and if he would give more to compensate Chaffee, Chaffee might be induced to pass the patent to him, and settle with him; that Judson agreed with you upon the point, and it was decided that you should go to Chaffee, and make proposals;—what proposal did you make to him, except to give a larger compensation?

A. I do not know exactly what the proposals were. I may say this: I know that Judson and I talked it over very friendly, and we were both anxious to have the matter settled; and I should not be surprised, if Judson had made some of those proposals himself. I do not wish to be understood that I made the whole thing there.

Q. I want your best recollection on this point. Who was it that proposed the $1500 a year and the $1500 bonus?

A. I think I did.

Q. Didn't you say, in New York, it was Judson.

A. I do not know what I said in New York altogether.

Q. Do you remember one of the jurors asking you, "Did Judson agree to that?" and your answering "Yes," or something to that effect?

A. I have no distinct recollection; if I should be asked the question now, I should say the proposition was made, and Chaffee did agree to it.

Q. Another question was put to you in these words: "The proposition was accepted,—$1500 down, and $1500 annually?"

A. I do not recollect of that being asked distinctly; I think it was asked, and I answered yes.

Q. You have spoken about an alteration in these papers; this paper, I see, states, that the payment was to be at the rate of $1200 per annum, although the agreement was, in fact, for $1500, so that that alteration was made in that paper?

A. Yes, sir.

Q. What other?

A. Filling up the quarterly payments, so as to make it correspond to the $1500.

Q. What other?

A. I do not know of any other.

Q. No other?

A. I do not remember any other.

Q. If there were any other, it is a pretty important circumstance.

A. I do not remember; that was the principal.

Q. If there was any other particular, small or great, in which that paper was to be altered, so as to meet the agreement of the parties, I want you to state it to the jury, other than the $1500?

A. I do not remember that there was any other agreement; I think that was the main feature.

Q. That being made, the paper was complete; was not that the agreement?

A. I have stated the agreement, that he was to pass that paper; I am not lawyer enough to know about the completion of papers; I have very little to do with lawyers.

Q. You are lawyer enough to write "et al.?"

A. No, sir; that shows my ignorance.

Q. Will you tell me what you meant by that when you wrote it?

A. Just what I wrote.

Q. Now, sir, in regard to the original parchment, with the extension indorsed upon it; you say, Chaffee or you bought it?

A. I said so.

Q. Was it produced or shown at all on the 5th of September?

A. I do not think it was; I do not remember that it was.

Q. Was it in Chaffee's house on the 5th of September?

A. I do not know that.

Q. Was it handed over that night with this paper?

A. I do not recollect that it was.

Q. Will you state that it was not?

A. I will not.

Q. Will you state that it was not handed, in your presence, by Mr. Chaffee to Mr. Judson, on the night of the 5th of September?

A. I do not remember that it was.

Q. Do you remember that it was not?

A. I do not.

Q. The next day, then?

A. No, sir.

Q. Any time?

A. No, sir; I do not remember any time.
Q. Nor don't remember anything about it?
A. No, sir.
(Mr. Brady here obtained the original draft of the paper of the 5th of September from the counsel on the other side, and handed it to the witness.)
Q. Is that the paper?
A. I should think it was; it looks very much like it.
Q. Now does that enable you to remember what objection was made to it by Chaffee?
A. No, sir.
(Mr. Brady here read the paper.)
Q. I have read a paper, which expresses that the consideration to be paid Chaffee was $3000; now, was not the objection by Chaffee, that $3000 would not do,—that he must have $1500 a year, and $1500 paid down?
A. I do not know, whether he objected at the time. That paper was read to that effect; I saw that paper, but whether I read it or not I am unable to say; I think I heard it read.
Q. Do you know in whose handwriting it was?
A. No, sir.
Q. Did anybody say, whether it was in Mr. Staples' handwriting?
A. No, sir.
Q. Did you know Mr. Staples' handwriting?
A. No, sir.
Q. You don't remember one word that was said about that paper when it was produced?
A. Not particularly, because it was out of my mind; I had very little to do with the making of the papers.

Re-cross-examined by Mr. Richardson.

Q. Do you now remember distinctly that this paper was read at New Haven.
A. No, sir.
Q. Was there anything said about whose writing it was?
A. No, sir.
Q. Were you summoned here as a witness?
A. No, sir.
Q. At whose request did you come?
A. At Mr. Bradley's.
Q. How did you get news from Mr. Bradley that he wanted you?
A. By letter.
Q. You came on that letter.
A. I did; I have it with me.
Q. Did Mr. Judson, at New Haven or at New York, say anything in reference to whether that patent should, under any circumstances, go into the hands of Goodyear; and if so, what did he say?

A. I stated that yesterday.

Q. What did you state?

Objected to as having been gone over already.

Mr. Richardson said, that Mr. Brady had read a portion of the examination in New York to the witness, but not the whole of it; and he thought that upon the new point raised on the other side about the threats at New Haven, he had a right to enquire further.

The Court. You may put it.

Q. What did he say in reference to the patents ever passing into Goodyear's hands?

A. He said it should not pass into Goodyear's hands, if he could prevent it.

Direct resumed by Mr. Brady.

Q. That is what he said to you?

A. Yes, sir.

Q. You are certain he did not say that to Chaffee?

A. I do not know whether he did or not.

Q. Did he?

A. How can I tell?

Q. Did you ever hear him say it to Chaffee?

A. O no; Judson said it to me.

Q. Were you not formally subpœnaed in this case?

The Court. What difference does that make?

Mr. Brady. The gentleman wanted to prove that he was not.

Mr. Richardson. You wanted to prove that he was not summoned in New York, where he could not be summoned.

Witness. I stated to Mr. Bradley that he need not be at the expense of summoning me, but that if he would write to me I would come.

Mr. Woodman re-called, and examined by Mr. Richardson.

Q. When you saw Mr. Judson in New York, prior to your going to New Haven, did he say anything about paying Chaffee the $1500 as a bonus?

A. I should say he did.

Q. What did he say?

A. He sent me from there to New Haven with an errand.

Q. What did he say on this one subject of this money? Come right to the point.

A. I do not exactly understand the question.

Q. What did he say on the subject of the $1500, if anything?

A. He told me to ask Chaffee if such a sum, in addition to some other sum, would be satisfactory; and, he would give that sum, if he would convey.

Q. What sum was that?

A. I understood it to be $1500; I never heard of any other sum.

Q. What sum yearly?

A. When we were in New York it was $1200 per annum; that was the sum, I think, was agreed upon.

Q. Will you state what Judson said to you, as near as you can?

A. As near as I can recollect, he stated that he thought he would be willing to give him $1500 down and $1200 a year for seven years, or during the time of the extension of the patent right. I think that is as near—I don't think it was the same language, but it is the substance of it.

Q. Can you be mistaken in relation to the $1500 down? How much was said about that between you and Judson?

Mr. Brady. You cannot ask him whether he can be mistaken.

Q. Was there any more said than you have stated?

A. Nothing varying from that; that, I think, was the substance of our conversation, condensed; I never heard of any other sum.

Q. (By Mr. Brady.) Was anything of that kind said at New Haven?

A. There was between me and Chaffee.

Q. Between Chaffee and Judson?

A. The last of our agreement in Chaffee's house was distinctly and unequivocally, that Chaffee was to have for his immediate use $1500 paid down, and $1500 for the succeeding seven years; and it was without equivocation. It is as bright in my mind as if it were last night; I never heard and never dreamed of any other thing.

Mr. Richardson then offered to put in evidence the letters of Seth P. Staples, in reference to the payment of $750, to show the whole correspondence.

(Objected to, as not evidence.)

The Court, after examining the letters, ruled them out, as not connected with the transaction.

Mr. Richardson then put in the certificate of a record of a judgment against Charles Goodyear, rendered in October, 1850, and now remaining unpaid, amounting to $306 22.

The plaintiff here rested; when

Mr. Brady offered to put in the decree of a judgment against Horace H. Day, and an injunction against him for infringing the vulcanizing patent; which was not allowed.

The counsel for the plaintiff then proceeded to put in their authorities; after which,

Mr. Bradley proceeded to sum up on the part of the defence, confining himself to the question of the validity of the patent. His argument occupied twelve hours, commencing on Thursday, February 22, and ending on Monday, February 26.

Mr. Jenckes followed in an argument of five hours.

Mr. Brady then summed up on the question of title, occupying eleven hours.

Mr. Richardson followed, occupying eleven hours; when, after the charge of the Court, the case went to the jury.

The counsel for the said defendants then read, in evidence, a certified copy from the Patent Office, of the paper of the 5th of September, 1850. The counsel for the complainant objected to the introduction of this paper in evidence, upon the ground that the execution of the same was not proved, and because the same had been materially altered since execution; and the Court reserved the said objections, and the said paper was read subject thereto, and to the decision admitting the said paper in evidence. The counsel for the said complainant then and there, in due time, manner, and form excepted; which said paper is as follows:

Whereas, I, Edwin M. Chaffee, have lately procured an extension of my patent, dated August 31, 1836, for seven years from the expiration thereof, the expenses of which have been large, by reason of the opposition thereto—but which expenses have not yet been ascertained, and cannot be at present:

And whereas, said patent, at the time it was extended, stood in the name of Charles Goodyear, and was held for his benefit, and the benefit of those who had a license, or who had a right to use his metallic or vulcanized india rubber, or india rubber prepared and cured according to and under his patent, dated June 15, 1844, and reissued December 25, 1849:

And whereas, said Charles Goodyear agreed with me, for himself and others using my said patent under him, that they would be at the expense of applying for said extension of said patent, and make me an allowance for the use thereof, in case the same should be extended, at and after the rate of twelve hundred dollars per annum, to commence on the 31st day of August, 1850, and payable quarterly, that is to say, three hundred dollars on the first days of December, March, June, and September, in each and every year during the present, or any further extension of said patent, and during any reissue of the same, and until said patent or any reissue thereof, shall be set aside as void in the highest Court to which the same can be carried:

And whereas, Wm. Judson, Esq., has had the management of said application for said extension, and has paid and become liable to pay the expenses thereof, and agreed to guarantee me the payment of said sums of money, according to the terms, and at the times above specified.

Now I do hereby, in consideration of the premises, and to place my patent so that in case of my death, or other accident or event, it may enure to the benefit of said Charles Goodyear, and those who hold a right to the use of said patent, under and in connection with his licensees, according to the understanding of the parties interested—nominate, constitute, and appoint said Wm. Judson, my trustee and attorney irrevocable, to hold said patent and have the control thereof, so that no one shall have a license to use said patent or invention, or the improvements secured thereby, other

than those who had a right to use the same when said patent was extended, without the written consent of said Judson first had and obtained.

And said Judson, for himself and those interested, agrees with me, said Chaffee, my executors, administrators, and assigns, that the expenses of attending said patent shall all be paid without charge to me; and further, that I shall be paid said sums of money, at the times and according to the terms above recited; and said Judson, and those for whom he acts, are to be at all the expense of sustaining and defending said patent, without any charge to me. And it is further expressly understood and agreed, that I am to have the right to use said patent and improvement in any business which I may carry on.

As witness my hand and seal, this fifth day of September, 1850.

EDWIN M. CHAFFEE, [L. S.]

Witness,
GEO. WOODMAN.

The counsel for the said complainant then read in evidence the paper marked exhibit "C," referred to in the 282d interrogatory in chief to Edwin M. Chaffee, and by him deposed unto, and which exhibit is hereinbefore set forth.

The counsel for the said complainant then read in evidence the 6th cross-interrogatory to the witness Charles B. Hotchkiss, and the answer thereto. The residue of the deposition was not read.

Circuit Court of the United States, Southern District of New York.

HORACE H. DAY, *v.* THE UNION INDIA RUBBER COMPANY. } In Equity.

Interrogatories to be put to Charles B. Hotchkiss, of the city of New York, on his examination in the above cause, on the part of the defendants.

1. Where do you reside, and what is your business or occupation?

2. If you state that you are engaged in the manufacture of india rubber cloths and other india rubber goods, please state how long you have been engaged in that business, and where and in what factories you have been engaged, and how long in each, and where you are now engaged, and how long you have been engaged in the factory where you now are, and whether you understand that business in all its branches.

3. Were you employed in the Union India Rubber factory at its commencement, and how much of your time have you been employed in that factory, from the commencement to the present time, and in

what department of the business in that factory have you been engaged mostly?

4. Are you well acquainted with Edwin M. Chaffee, now of Providence, in R. I.?—and if you answer in the affirmative, please say for how long a period you have been acquainted with said Chaffee and his family, and whether or not you have been on friendly and intimate terms with said Chaffee and his family.

4. Have the Union India Rubber Company, from its commencement, been in the use of any patented improvements for the preparation of india rubber for manufacturing purposes?—and if you answer in the affirmative, please state whose patented improvements said company have been in the habit of using, and from whom the company derived their right to use said improvements.

5. If you say that the Union India Rubber Company derived its right to use said improvements from Charles Goodyear and his assignees and licensees, please state whether said Goodyear was, at the time he gave the right to use said improvements, in the use thereof himself, and the reputed owner of said Chaffee's patent, which covered a part of said improvements, and whether his licenses, under which said Company worked, did not include said Chaffee's patented improvements as well as his own.

6. Please state whether the Union India Rubber Company did or not, at the commencement of its business, use said Chaffee's improvements, as well as said Goodyear's, in the preparation of india rubber for their manufacturing purposes, and whether they have not continued to the present time, with the knowledge of said Chaffee, the same use of said improvements; and did said Chaffee, to your knowledge or belief, ever make any objection to such use of his said improvements, until after the alleged sale of his said patent to the complainant?

7. Do you recollect the time when the application was made for extension of said Chaffee's patent, and at whose expense, and for whose benefit it was made, and who was the agent for said Chaffee and the persons interested with him in said extension, if obtained?—If you answer in the affirmative, please state what you know and recollect on the subject, and particularly who acted as the agent and attorney of said Chaffee and the other persons interested in said application; who bore the expenses of said application, and by whom and out of what fund said expenses were paid, and whether you did not get your information on this subject both from said Chaffee and said Goodyear and his licensees:—please state particularly.

8. Are you now a stockholder in said company?

9. Is there any other matter or thing within your knowledge or recollection, material to the issue between the parties in the above case?

J. B. STAPLES,
Solicitor for the Defendants.

Circuit Court of the United States, Southern District New York.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY.

Cross-Interrogatories to Charles B. Hotchkiss, a witness for defendants.

The complainant objects to the 5th interrogatory in chief, because it inquires the contents of a written paper and the opinion of witness.

The complainant objects to the 6th interrogatory in chief, because it asks for the belief and opinion of the witness.

The complainant objects to the witness, on the ground that he is interested in this suit.

1. Do you own stock in this company, and are you interested in this suit?

2. Is the Chaffee process necessary and useful in the business of the Union India Rubber Company?

3. If useful and necessary, why? what are its advantages, and why do they use it?

4. How many machines called Chaffee Machines were in the factories of defendants, August 31st, 1850? Grinders and spreaders, state how many of each?

5. How many machines have been put in since August 31st, 1850, if any, and how many machines called "Chaffee Machines" have been used since that time in the defendants' factories? State particularly when and where, made by whom and whether grinders or spreaders.

6. Have any machines been used in said factories since August 31st, 1850, that were not used before that time?

7. Are not all the rights held by the Union India Rubber Company, to manufacture under Goodyear's Patent or any other, in writing; and if not, define particularly what are verbal, when and where and by whom and how made? State particularly,

8. Did the Union India Rubber Company pay anything, and what, for the use of the Chaffee Patent during the original term; and if anything has been paid, state when, where, by whom? State particularly?

9. If, in answer to the 7th interrogatory in chief, you say that you know anything about the expenses of the extension, and for whose benefit it was made, answer, when you first heard of the contemplated extension, when and where, and from whom, if from Mr. Chaffee; state precisely, if you can, what he said; if from any other person than Chaffee, state the time, place, and date of the information, who gave it, but not what was said.

10. Did you know, of your own personal knowledge, anything

about the expenses of the extension? Was you present when any part thereof was paid; and who, if any one, paid any of the expenses, when, where, and what? State particularly what you know of your personal knowledge, but nothing from hearsay.

11. Did you know of a contract between Goodyear and his licenses, and William Judson and Seth P. Staples, by which a fund was to be raised to pay certain expenses? If you have seen said paper, when and where did you first see it?

12. Had you any other personal knowledge about the payment of those expenses than what arose from your knowledge of that trust-fund?

13. Have you any personal knowledge as to who acted as the agent of said Chaffee, in procuring the extension of that patent?

The complainant objects to that part of the 7th interrogatory in chief, which assumes that any one acted as the agent of the licensees in procuring the extension.

14. Do you know personally that William Judson did not pay the expenses out of his own money, or part of them?

15. Do you know that said expenses, or any part, have been paid, and if so, what part? Name each item which you know to have been paid, the time, place of payment, the person who paid and who received, what the payment was for, and how you happened to be present.

The complainant objects to any information obtained from Judson, Goodyear, and his licensees, as indicated in the 7th interrogatory in chief.

16. When and where did you see E. M. Chaffee between the 23d day of May, and the 31st day of August, 1850? Name each time and place, if more than once, who was present, how you happened to see him.

17. Did not Mr. Chaffee tell you he had made a contract with Goodyear about the extended patent?

18. Did you ever see or hear of a contract between Charles Goodyear and E. M. Chaffee, dated May 23, 1850, a copy of which is hereto annexed, and marked "A," and if so, when did you first hear of it, where and from whom? State particularly.

19. Did not Mr. Chaffee tell you of paper "A" before the extension, and when?

20. If you state any conversions with Chaffee or Goodyear in answer to these cross-interrogatory, or in answer to the interrogators in chief, state when and where each took place, and who was present?

21. If you have said anything about or in reference to any agreement between Chaffee and the licensees of Goodyear before the extension of his patent, state whether you did not then know, and do not now know that the contract between Chaffee and Goodyear of the 23d of May was in existence at the time of the extension, and whether you of your own personal knowledge know and was present

when any other contract was made then said written contract by said Chaffee; if so, state when, where it was made, who was present, the precise terms of it; state particularly?

22. If you have said that you are not a stockholder and interested in this suit, have you not heretofore been so? have you sold? when, to whom, how much for how much, and was it an absolute sale or for the purpose of making yourself a witness in this case?

23. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer?

S. BLATCHFORD,
Solicitor for Plaintiff.

Charles B. Hotchkiss, of Harlem, in the county of New York, manufacturer, aged thirty years and upwards, being duly and publicly sworn, pursuant to the directions hereto annexed, and examined, doth depose and say as follows, viz.:

1st. I reside in Harlem; I am superintendent of the mill of the Union India Rubber Company, in Harlem, which is my present occupation.

2d. I have been engaged in the manufacture of india rubber cloths and other india rubber goods, since the year 1844; I was in the mill in Naugatuck, from 1844 till the fall or winter of the year 1852, with the exception of two absences of some three months each. I then came to the manufactory in Harlem, in the month of February, 1853, where I have ever since been engaged, and still continue to be employed. I understand the manufacture of india rubber goods in all its branches.

3d. I have been employed in the Union India Rubber factory from its commencement, and I have continued in its employ until the present time, with the exception of some six months. While at Naugatuck, I was agent and superintendent of the manufacturing; and at Harlem, superintendent of the manufacturing.

4th. I am well acquainted with Edwin M. Chaffee, now of Providence, R. I. I have been acquainted with said Chaffee and his family for the last 9 or 10 years, and have been on friendly and intimate terms with them.

Second 4th. Yes, they have; they have been in the habit of using Edwin M. Chaffee's patented improvements, from the commencement of their business; and the said Union India Rubber Company derived their right to use them from Charles Goodyear and his assignees and licensees.

5th. Yes; Goodyear was, at the time he gave the right to use said improvements, in the use thereof himself, and the reputed owner of the Chaffee patent, which covered a part of said improvements; and

his licenses, under which the company worked, did include Chaffee's patented improvements, as well as his own.

6th. The said company, at its commencement of business, did use said Chaffee's improvements, as well as said Goodyear's, in the preparation of india rubber for manufacturing purposes, and have continued to do so to the present time, with the knowledge of said Chaffee. And the said Chaffee did not, to my knowledge or belief, make any objection to such use, until after the alleged sale of his said patent to the complainant.

7th. I think it was in the year 1850 when the application was made for the extension of Chaffee's patent; it was made at the expense of and for the benefit of Charles Goodyear and his licensees. William Judson was the agent for said Chaffee, and Goodyear and his licensees were the persons interested in the extension which was obtained. I recollect that William Judson acted as the agent and attorney of said Chaffee and the other persons interested in said application.

I derived my information on this subject, from my own personal knowledge, and from conversations on the subject from the said Chaffee, Goodyear, and his licensees.

8th. I am not now a stockholder in said company.

9th. I know nothing further material to the issues between the parties in the above case.

CHA'S. B. HOTCHKISS.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 27th day of September, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

Cross-Interrogatories: 1st. I do not own stock in this company, and am not interested in this suit.

2d. It is.

3d. It lessens the expense, and facilitates the manufacturing the goods.

4th. The mill at Naugatuck I think had seven grinders and three spreaders, on the 31st August, 1850, called Chaffee's machines. The mill at Harlem had I think five grinders and two spreaders.

5th. There have been no new grinders or spreaders put in the Naugatuck factory, by the Union India Rubber Company, since August 31st, 1850. They are now using at that mill three grinders and one spreader. There has been no new machine put up in the Harlem mill, excepting a cementing machine, since I went to Harlem, which was, I believe, in the year 1853.

6th. There were two grinders put into the Naugatuck mill, to take the place of some old ones that were out of repair. In the Harlem

factory there has been no new machine, excepting the one above mentioned, since I have been employed in the said Harlem factory.

7th. I do not know.

8th. I do not know.

9th. When I first heard of the contemplated extension, I was living in Naugatuck; but I cannot recollect who first mentioned the subject to me. I have heard Chaffee talk about it, and others, but I do not recollect any particular conversations with them on the subject. Connected as I was with the business, I had a general knowledge of the subject.

10th. I have no personal knowledge on the subject-matter of this interrogatory; my knowledge is derived from the books, and from what was the general understanding among the parties interested in the company.

11th. I have no personal knowledge of any such contract; I have not seen it or read it.

12th. No.

13th. I have been present when Chaffee, Judson, Goodyear, and other parties, have talked of Judson as the agent in procuring the extension, and he was generally recognized as the attorney and agent for that purpose.

14th. No.

15th. I have no personal knowledge as to the subject-matter of this interrogatory.

16th. I think I saw E. M. Chaffee several times at Naugatuck, between the 23d day of May and the 31st day of August, 1850; but the precise day or days I cannot now recollect, or who else was present. I happened to see him, for he made it head-quarters at the mill where I was employed.

17th. I do not know that Chaffee told me he had made a contract with Goodyear about the extended patent.

18th. I have heard of the contract marked "A," but never saw it before, to my knowledge; I do not recollect when I first heard of it, or where I was, or from whom.

19th. I have no recollection that he did.

20th. The principal conversations I have had with Chaffee or Goodyear, have been at the mill in Naugatuck; but the precise times, and who were present, I do not now recollect.

21st. I have no personal knowledge of the written contract spoken of in this interrogatory between Chaffee and Goodyear, and consequently do not know whether it was in existence at the time of the extension; and I have no personal knowledge that any other contract was made between them.

22d. I have been a stockholder in this company; I have sold my stock to D. M. Wilson, at the par value; it was an absolute sale, divesting me of all interest in such stock; I was advised to sell the said stock, and did so, that I might be a witness in this case.

23d. I know of nothing further material to the issues between the parties in the above case.

CHAS. B. HOTCHKISS.

Examination taken, reduced to writing, and by the witness subscribed and sworn to, this 27th day of September, A. D. 1855, before me,

EDWARD E. COWLES,
Commissioner.

The testimony was here closed.

At a special term of the Circuit Court of the United States of America, for the Southern District of New York, in the Second Circuit held at the City Hall in the city of New York, on the eleventh day of September, in the year of our Lord one thousand eight hundred and fifty-six.

Present, the Honorable Nathan K. Hall.

HORACE H. DAY
v.
THE UNION INDIA RUBBER COMPANY. } In Equity.

This cause having been heard on pleadings and proofs, and argued by counsel, thereupon, on consideration thereof, it is declared, adjudged, and decreed, that the bill of complaint in this cause be, and the same is hereby dismissed, with costs to the defendants against the plaintiff to be taxed, and that the defendant have execution against the plaintiff for such costs when taxed according to the practice of this court.